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Minority Teachers in an Era of Retrenchment: Early Lessons in an Ongoing Dilemma

A FOLLOWUP REPORT OF THE MASSACHUSETTS ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS

December 1982

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—A report of the Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights prepared for the information and consideration of the Commission. The report will be considered by the Commission and the Commission will make public its reaction. In the meantime, the recommendations in this report should not be attributed to the Commission, but only to the Massachusetts Advisory Committee.

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ACKNOWLEDGEMENTS

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The report was the principal staff assignment of Larry Riedman. Legal review was conducted by Mary Lee Walsh. Clerical support was provided by Sylvia Cooper. The project was undertaken under the overall supervision of Jacob Schlitt, Director, New England Regional Office.

MINORITY TEACHERS IN AN ERA OF RETRENCHMENT: EARLY LESSONS IN AN ONGOING DILEMMA

--A followup report of the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights

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LETTER OF TRANSMITTAL

Massachusetts Advisory Committee
to the
U.S. Commission on Civil Rights

December 1982

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Dear Commissioners:

Pursuant to its responsibility to inform the Commission about civil rights developments in Massachusetts, the Massachusetts Advisory Committee submits this report on the status of minority teachers in the public schools after a year of severe budget cuts and teacher layoffs. This report follows up and complements the Advisory Committee's May 1982 report, Teacher Layoffs, Seniority, and Affirmative Action. The prior report emphasizes legal and policy issues, while the new one describes the experience of the first year of implementation of Proposition 2-1/2 (a cap on local property and excise taxes).

The information presented in the report leads to the conclusion that the unique benefits that teachers from minority groups bring to the public schools continue to be jeopardized by staff cuts. This observation was made by many concerned educators and civil rights spokespersons a year ago, and it remains true because many of the same conditions exist today -- schools will have to absorb additional budget cuts, the resulting layoffs most commonly will follow seniority lines, and most minority teachers lack substantial seniority.

In the past year, court protection and legal challenges to seniority-based layoffs have been important in preserving the integration of faculties in a number of districts. This approach has been of mixed effectiveness and is of limited application. Fortunately, examples of potentially more-effective, less-divisive

strategies have emerged in the efforts of individual school districts, and we hope that our report will encourage school authorities to look to these examples.

Among the noteworthy examples of effective efforts to maintain a multiracial staff are recruiting efforts in Cambridge, Brookline, and Newton; the agreement in Cambridge by the school committee, teachers union, and minority parties to maintain racial balance during layoffs; and organizational shifts in Medford and Pittsfield that preserved minority staff.

While the Advisory Committee believes it has assembled a serviceable portrait of what occurred in the past year, this task was made difficult by the lack of comprehensive data on staff composition. Consequently, the concluding chapter offers several data-gathering and -reporting deficiencies.

Though the developments reported here may be of greatest interest to school officials and administrators, much more than the administrative perspective is involved in questions of the relationship between races in the schools. The Community Relations Service of the U.S. Department of Justice has reported a rising number of incidents of racial and anti-Semitic bigotry in the Commonwealth's schools. Research summarized in the Advisory Committee's report indicates that minority teachers play a key role in effecting harmonious race relations among students.

Moreover, on the basis of the requests from across the country for its first layoffs report, the Advisory Committee believes this issue involves more than just one State's effort to adjust to a change in its tax law. In coming years, many jurisdictions will face these questions as enrollments decline and competition for scarce public funds grows.

The Advisory Committee hopes that these two reports to the U.S. Commission on Civil Rights will provide the Commission and public decisionmakers and administrators addressing these issues a useful combination of policy concepts and instructive experience.

Respectfully,

BRADFORD E. BROWN, Ph.D.
Chairperson
Massachusetts State
Advisory Committee

PREFACE

In public education as in other areas of government responsibility and administration, Massachusetts' Proposition 2-1/2 (a law placing a cap on local property and excise taxes) has sharpened awareness of long-developing problems and conflicts. Since well before the tax measure went into effect in 1981, pressure on school authorities to limit staffing has mounted in the form of long-term declines in enrollments, public doubts in many communities about the effectiveness of the schools, and an emerging national view that many forms of Federal involvement in (and funding of) education are no longer appropriate.

These trends augured eventual declines in faculty sizes and teaching opportunities, with the hard questions such developments would raise. Proposition 2-1/2 brought the day of decision sooner rather than later.

The tax rollback came also in the midst of other question-raising developments-- the proportions of minority students in Massachusetts' schools are increasing; the number of acts of bigotry in the schools appears to be on the rise; the growing strength of teachers' unions has increased reliance on seniority preference; affirmative action in hiring has become a common element of personnnel administration in the Commonwealth's schools; and, nationally, a number of legal, political, and philosophical assaults on affirmative action are in progress.

This second range of trends, the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights believes, has made it particularly important to monitor the status of minority teachers during the current retrenchment. Indeed, this complex of issues makes it timely to review and assess the roles minority teachers play in the public schools.

This report carries out these tasks by reviewing developments concerning minority teachers during the first year of implementing Proposition 2-1/2 (the 1981-82 school year) and by surveying recent legal and educational thought on these subjects. It complements the Advisory Committee's first report on these matters, Teacher Layoffs, Seniority, and Affirmative Action, released in May of this year. That report contained the proceedings of a Consultation the Advisory Committee had sponsored in which educators, attorneys, school committee members, and government officials presented justifications and possible strategies for retaining minority teachers during retrenchment.

The response to that first report -- requests for it have come from across the United States and even Canada -- suggests the continuing, even growing, interest in this issue. The Massachusetts Municipal Association (MMA), in its January 1982 Report on the Impact of Proposition 2-1/2, noted the larger significance of the changes in Massachusetts:

> ...we in Massachusetts have had to absorb both federal cuts and the cuts required by Proposition 2-1/2 in FY 1982. Hence the shrinking of the public sector has been accelerated here, and our actions in coping with this situation have become a topic of interest to all who are concerned with the problems of government.

The Commonwealth's progress through these challenges will remain of interest to public administrators for whatever legal and administrative precedents or solutions it eventually yields.

Much more than the administrative perspective, however, is involved in questions of the relationship between races in the schools. On August 30, 1982, just prior to the opening of the 1982-83 school year, Massachusetts Commissioner of Education John Lawson found it necessary to send a memorandum to school superintendents and school committee chairs regarding "a serious increase in Massachusetts of racial and anti-Semitic acts of bigotry....[and] the increasing frequency of these acts occurring in our public schools." The presence of minority teachers, many have asserted, is a crucial factor in addressing such situations.

In sum, Proposition 2-1/2 is not a discrete factor but an event that embraces and illuminates a whole range of inter-related conditions. As such, it serves the Advisory Committee in this report as an occasion to look both at specific changes in the employment of minority teachers in Massachusetts and also at the general conception of their roles in the schools.

In addition, as Chapter I shows, a look at budget cuts affords opportunities for brief looks at other aspects of educational equity. Chapter II presents broad shifts in school staffing during the implementation of Prop 2-1/2, and Chapter III describes changes in minority faculty, utilizing anecdotal and statistical information on selected school districts and inferences from pertinent statewide aggregates. Chapter IV recounts policy and legal developments concerning teaching and equal employment opportunity, while Chapter V discusses the educational dimension of the presence of minority teachers in the schools. The final chapter offers conclusions and recommendations.

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I. GENERAL EFFECTS OF PROPOSITION 2-1/2 ON EDUCATIONAL QUALITY AND EQUALITY

Equality of educational opportunity has been a concern of the Massachusetts Advisory Committee for nearly two decades. Therefore, before discussing the status of minority teachers, the Committee believes it is worthwhile to summarize some of the broader trends in public education associated with Proposition 2-1/2. These trends raise serious equity questions. As in the case of teacher employment, these inequities stem from underlying conditions rather than the single event of the tax rollback.

Effects by Type of Community

One perspective on these changes has been provided by the Massachusetts Municipal Association, which documented the degree to which public education absorbed municipal revenue losses in communities (excluding Boston) that experienced either "severe impact" or "moderate impact" from Proposition 2-1/2. "Severe impact" meant a cut of at least 10 percent in property tax levies or significant personnel retrenchment. Thirty-three communities fell in this group (some examples, from the top of the alphabetical list, are Arlington, Billerica, Brookline, Cambridge, and Chelmsford). One general conclusion of the MMA was that "Proposition 2-1/2 has been most severe in those communities with the poorest inhabitants."[1]

Predictably, the MMA found that in "severe impact" communities, school budgets dropped 9.9 percent, while in "moderate impact" communities they fell only 4.8 percent.[2]

Regarding layoffs statewide, "...school employees accounted for 66.5 percent of all municipal employee cuts [while]...school employees account[ed] for 66 percent of the municipal workforce."[3] It should be recalled, however, that this proportionality is an average, leveling communities where teachers were shielded from their proportionate share of layoffs and other communities where they were disproportionately burdened. The MMA did not publish data by individual municipality for layoffs, but the potential disparities are apparent in the data MMA published for school budget cuts. In "severe impact" communities, schools absorbed 70 percent of the total budget cuts, while in "moderate impact" communities, schools absorbed 85 percent.[4]

In other words, though schools predictably suffered the deepest cuts in hardest-hit municipalities, the schools in those communities carried a lighter burden in comparison to other government functions than was the case in less-hard-hit commmunities. By and large, the "severe impact" communities were larger municipalities, and the MMA's interpretation of how their adjustments differed from those in the "moderate impact" group is:

> ...one of the few budgets that has any flexibility at all in a smaller community is the school budget, and this may explain why school budgets bore a greater share of the cuts in the Moderate Impact Group.5

Edward P. Morgan, an Associate Professor of Government at Lehigh University who conducted his own study of the equity aspects of the implementation of Proposition 2-1/2, analyzed the data gathered by the MMA and then presented in his study a level of detail that did not appear in the MMA's own report:

> According to the data used in this [i.e., the MMA's] study, the average local school district reduced local education appropriations by 9.4 percent, instructional appropriations by the same amount, and administrative appropriations by 6.8 percent; the average district also reduced teaching personnel by 13.4 percent and closed 14.3 percent of all schools open in 1980.6

(Exhibits A and B display some of the programmatic effects of such cutbacks. Many of the programs eliminated or curtailed are ones that affluent parents could provide for their children outside the schools, which underscores the severity of the effects of such cuts in the poorer school districts.)

Morgan's intention was to determine "...the degree to which the taxpayers' revolt collides with the impetus for school finance reform designed to enhance educational equity."7 Regarding the equity of the cutbacks, Morgan noted:

> ...cuts were more pronounced in urban areas, where the proportion of poor and/or minority students is often greater, and the percentage of graduates attending four-year colleges is smaller. As a result, one would not expect equal opportunity to be enhanced by Proposition 2-1/2.8

Indeed, Morgan drew the following conclusion: "These data suggest that...Massachusetts' system of funding public education -- already one of the least equitable in the country -- will become more inequitable in the wake of Proposition 2-1/2."9

Outlook for the Second Year

Looking to the effects on equity of Prop 2-1/2 in its second year (i.e., 1982-83), the MMA reported, "...the communities that will have to make levy cuts in FY 1983 have an average equalized valuation per capita that is substantially below the statewide average."10 Morgan projected this prediction onto the question of educational equity:

> It should be noted that 1983 cuts are most likely to be made in precisely those communities that have a higher proportion of

SCHOOL DISTRICT CHANGES IN FACILITIES AND SERVICES SUBSEQUENT TO PROPOSITION 2½

TRANSPORTATION

1084 buses and routes were eliminated; 91 districts increased the minimum distance beyond which transportation will be provided.

USER FEES

125 districts established user fees for such services as athletics, instrumental lessons, driver education, extracurricular activities, use of buildings, etc.

BUILDINGS

Of 240 school buildings closed last year, 163 were closed because of Prop. 2½; 35 were closed because of both 2½ and declining enrollment; 107 were closed due to declining enrollment.

OTHER ACTIONS TAKEN

142 districts adopted other strategies to reduce expenditures. These include eliminating subsidy for school lunch program to make it self-sufficient*; reductions in purchases of textbooks and supplies for students; adjustment of school calendar; reorganization of grades to reduce personnel; elimination of overtime; etc.

*This, together with reduced federal subsidy, results in a price increase for student lunches.

Source: Massachusetts Association of School Committees, The Impact of Proposition 2½ on the Public Schools (April 1982).

EXHIBIT A

SCHOOL DISTRICT PROGRAM REDUCTIONS SUBSEQUENT TO PROPOSITION 2½

Programs Eliminated: Listed are the most common programs eliminated or curtailed as reported in the survey. No asterisk = 5-9 districts; * = 10-20 districts; ** = 20 or more districts.

K-12	ELEMENTARY	SECONDARY	EXTRA CURRICULAR
field trips*	music**	foreign languages*	athletics**
music*	field trips**	driver education*	assorted activities/clubs**
food service*	art**	art*	adult education*
art	athletics*	athletics*	music
transportation	psychological services*	home economics*	transportation
adult education	summer school*	adult education*	driver education
gifted/talented	foreign language*	music*	drama
athletics	health/dental*	health/dental*	
summer school	equipment/supplies*	industrial arts*	
maintenance	library services*	reading services	
	gifted/talented	business	
	staff training	field trips	
	reading services	career services	
	career services		
	handwriting		
	home economics		
	industrial arts		
Programs Curtailed			
music**	music**	athletics**	athletics**
athletics**	art**	industrial arts**	assorted clubs/activities**
art**	athletics**	music**	music
maintenance*	library services*	art*	transportation
equipment/supplies*	equipment/supplies*	foreign languages*	
library services*	psychological services*	home economics*	
transportation*	maintenance*	career services*	
field trips	reading services*	library services*	
health/dental	career services	health/dental*	
career services	health/dental	equipment/supplies*	
psychological svcs.	foreign languages	science	
food service	home economics	math	
audio visual svcs.	industrial arts	business	
foreign languages	mathematics	driver education	
driver education		psychological svcs.	
staff training			

Source: Massachusetts Association of School Committees, The Impact of Proposition 2½ on the Public Schools (1982).

EXHIBIT B

> disadvantaged pupils and a lower proportion of graduates attending four-year colleges....In the absence of substantial new state aid designed to overcome property wealth inequities, educational finance in Massachusetts is likely to become even more inequitable than it already is, with significant equal opportunity implications.11

For individual disadvantaged students this means, in the words of Boston Globe editorial writer Kirk Scharfenberg, "The prospect that public education in Massachusetts will open the pathway to mobility...-- certainly the most compelling moral claim that public education can assert -- has become poorer."12

Teachers Unions and the School Budget Process

Given that the teachers in almost all municipalities are unionized (affiliated with either the National Education Association or the American Federation of Teachers), one might have expected them to have vigorously asserted the needs of the schools in the debates over how reduced resources would be allocated.

Instead, "Teachers unions were noticeably inactive in influencing budget allocations to school departments," summarized Impact 2-1/2 in June 1982.13 The biweekly monitoring report issued by MIT's Department of Urban Studies and Planning cited some of the reasons for this:

> Teachers feared that in any open competition with public safety [i.e., fire and police budgets], they would lose. They felt the schools had no public or official support for such a contest, mostly because of declining enrollments demographic shifts, and the high visibility of school costs on tax bills.14

The proposition's removal of school committee autonomy was believed to have further reduced teachers' leverage.15

The unions' scope of influence was restricted principally to affecting the order of layoffs, a point of controversy which is described in subsequent chapters.

Notes to Chapter I

1. Massachusetts Municipal Association, Report on the Impact of Proposition 2-1/2 (January 1982), p. 3 (hereafter cited as MMA Report).

2. Ibid., Table 4, p. 5.

3. Ibid., p. 4.

4. Ibid., Table 6, p. 6.

5. Ibid., p. 7.

6. Edward P. Morgan, "Public Education and the Taxpayers' Revolt: The Causes and Consequences of Proposition 2-1/2 in Massachusetts" (May 1982), pp. 13-14, citing Massachusetts Municipal Association, unpublished data for Report on the Impact of Proposition 2-1/2 (January 1982) (hereafter cited as Morgan).

7. Ibid., pp. 2-3.

8. Ibid., p. 25.

9. Ibid., "Summary."

10. MMA Report, p. 10.

11. Morgan, p. 28.

12. Kirk Scharfenberg, "Massachusetts Public Schools: A Quiet Crisis," Boston Globe, Nov. 21, 1982.

13. Impact 2-1/2, no. 28 (June 15, 1982), p. 6.

14. Ibid.

15. Ibid.

II. TRENDS AND SHIFTS IN TEACHING STAFF LEVELS

The Boston Globe reported in October 1982, "Though school budget reductions have hit many states, Massachusetts is the national leader in teacher layoffs."1

As recently as the 1979-80 school year, overall teacher employment in the Commonwealth rose 4.8 percent over the previous year. That, however, was the last such increase-- the 70,154 teachers then in the schools represent the peak of a long era of growth. The next year-- the year before Proposition 2-1/2 went into effect-- the number of teachers fell by 1.5 percent.2

In contrast, enrollments during these years declined steadily, dropping 3.8 percent over the previous year in 1979-80, and an additional 3.8 percent the next year.3 Clearly, the trend in enrollments was on a collision course with the trend in staffing, with the impact beginning to occur immediately prior to Proposition 2-1/2.

Statewide Changes

The number of public school teachers during 1981-82 (the first year of implementation of Proposition 2-1/2) fell 7,465 according to the Massachusetts Department of Education. In October 1980 there were 69,097 teachers, while a year later there were 61,632.4 Even though the enrollment decline for 1981-82 accelerated to 5.0 percent,5 this 10.8 percent drop in teachers more than doubled it. The total personnel loss in the public schools as Proposition 2-1/2 went into effect was "twice the job loss that would have been justified by enrollment declines," estimates Kirk Scharfenberg of the Boston Globe.6

This mix of causes also was discerned at the district level. For instance, Impact 2-1/2 reported in June 1982, "One third of Wayland's teachers would have been dismissed even without 2-1/2 cutbacks. In Burlington, 30 percent would have been dismissed."7

Reduction of staff, whether due to enrollment declines or to budget cuts, can be accomplished through voluntary departures by teachers or by layoffs. Figures published by the Massachusetts Association of School Committees (MASC) suggest a heavy reliance on layoffs. The survey showed that 12.6 percent (7,128) of the school districts' "professional staff" (i.e., "non-administrative certified personnel") received "notifications of non-renewal or dismissal" prior to the distribution of additional State aid in the fall of 1981, and only 731 of these employees were rehired during the period MASC examined, leaving a net reduction attributable to layoffs as the 1981-82 school year opened of 6,397 staff, or 11.3 percent.8

The MASC survey reflects a mid-point in the layoff and rehiring process. Notices of non-renewal had been sent to nontenured

teachers in April 1981 and to tenured teachers in May.[9] Fiscal uncertainty (not only about Proposition 2-1/2 but also about cuts in Federal aid) led cautious school authorities to issue a very high number of notices.

Furthermore, the rehiring figure MASC gives reflects only the low level of rehiring officials would have believed feasible with State local aid announced in July, at which time caution would still have been the posture in most towns. The additional "lottery formula" funding that eventually came in the fall of 1981 would not have figured in their planning. More laid-off teachers were rehired later in the year, while others vulnerable to future layoffs may have left teaching "voluntarily," with the result that analyses conducted later in the year would likely show lower proportions for layoffs as an element of staff declines. Unfortunately, the data furnished to the Advisory Committee by the State Department of Education do not distinguish voluntary from involuntary movement out of teaching.

There is a consensus among educators and demographers that the long-developing trend of shrinking enrollments will continue through the 1980s, continuing to exert pressure to limit staff levels in the public schools. Thus, discussion of opportunities in the teaching profession or of the composition of faculties cannot be limited to formal layoffs or to the specific effects of the recent budget cuts. Long-term prospects in the profession are sufficiently uncertain that many teachers not formally laid off have left teaching or are considering alternative careers. Certainly some of last year's decline is attributable to teachers' leaving the profession voluntarily.

Changes By Curriculum

Looking at these changes by curriculum adds another perspective on educational equity to those perspectives already presented. Staff level changes at this broad level, as tabulated by the State Department of Education, are shown in Table 1.

Regular education, being the largest program area, predictably bore the brunt of the reductions. Of the three smaller, specialized areas, bilingual education and occupational education did not experience retrenchments, while special education bore the proportionally deepest cuts of any area.

The even level of bilingual education is probably in part attributable to its being a program mandated by State law,[10] and to the fact that it is a small, emerging curriculum, accounting for only 1.5 percent of the State's students and only 1.8 percent of public school teachers.[11] However, special education also is required by State law,[12] and it saw a significant reduction in staffing.

Table 1. TEACHING STAFF IN MASSACHUSETTS PUBLIC SCHOOLS BY CURRICULUM, FY 81 AND FY 82

	# of Teachers FY-81	FY-82	# Change	% Change
Regular Education	56,697	50,224	-6,473	-11.4
Special Education	7,138	6,005	-1,133	-15.9
Occup. Education	4,037	4,130	+93	+ 2.3
Biling. Education	1,226	1,274	+48	+ 3.9

Source: Massachusetts Department of Education, Bureau of Data Collection and Processing, "Teaching Staff in Public Schools, FY 81 and FY 82, for Regular, Special, Occupational, and Bilingual Education" (August 1982).

Perhaps a greater factor in explaining the stability of bilingual education is that the timing of arrival of funding to some degree determines staffing practices in different curricula. Bilingual education is supported by "up front" money in the form of State and Federal grants, while State special education funds are provided on a reimbursement basis.[13] The latter arrangement makes for less continuity.

It is not possible to ascertain from such data whether any specific group of teachers, such as minority teachers, was disproportionately laid off in any curriculum area. However, in that many bilingual teachers are Hispanic or other language minority, the stability in bilingual education suggests a measure of stability in at least one small area of minority staffing during the cutbacks.

On the other hand, pursuant to a ruling by the State Bureau of Teacher Placement and Licensing, regular teachers were permitted to bump teachers of English-as-a-Second-Language (ESL), a program that had no teacher certification at that time. Individuals who had been teaching ESL for as long as nine years were dismissed. Thus, although the level of bilingual education staff did not change greatly during Proposition 2-1/2, composition of the staff may have, with possible displacement of many of the minority teachers who were strongly represented in this curriculum prior to the budget cuts. Another accommodation made to Proposition 2-1/2 was an increase of the student-teacher ratio called for in bilingual programs, enabling school districts to comply with their obligation to serve these students but do so with fewer staff. Another development was that teacher aides were released.[14]

Changes by Type of Community

Professor Morgan's examination of the effect of Prop 2-1/2 on

educational equity (see Chapter I) also included analyses of patterns in teacher layoffs. One analysis in this "attempt to test a predictive model that isolates the most significant determinants of teacher layoffs" was of variance in "teaching workforce reduced" by type of community.[15] Although the figures Morgan used are from August 1981 (i.e., like the MASC data, prior to State aid that enabled districts to recall teachers who had received layoff notices), the substantial variations he found are worth looking at nonetheless. From wealthiest to poorest quintiles of districts (by per capita property wealth), the "teaching workforce reductions" were as follows:[16]

Wealthiest Quintile:	0 percent
Second Quintile:	23.8 percent
Third Quintile:	39.4 percent
Fourth Quintile:	57.7 percent
Poorest Quintile:	45.0 percent

Among districts whose reductions exceeded the median (i.e., with severe reductions), teaching workforce cuts ranged as follows:[17]

Cities:	56.0 percent
Suburbs:	31.4 percent
Towns:	39.3 percent
Resorts:	0 percent
Statewide:	36.4 percent

These figures demonstrate general (but not perfectly consistent) trends of increasing severity of layoffs as population size of the jurisdiction increases and as wealth declines. Two observations are worth making on these figures. First, they are of such great magnitude in most of the types of communities that they would almost certainly create a feeling of jeopardy that would cause teachers to seek other work. Second, as averages, they certainly mask significant variations -- for example, although the layoffs figure for "resorts" is zero, Advisory Committee members are aware of laid-off minority teachers in such communities.

Another element of Morgan's effort to develop a "predictive model" was an analysis of how declines in instructional appropriations and in teaching staffs varied across communities classified by "percentage of pupils who are non-white."[18] He found that:

> Budget cuts in FY 1982 were not significantly related to the percentage of pupils who are nonwhite or from poverty-level families. One reason this is the case, however, is that two types of communities have large proportions of pupils from these groups: cities and coastal resorts. Because one group (cities) made substantial cuts and the other (high property-wealth resorts) did not, no overall relationship between these characteristics and budget cuts emerged. The urban poor and

minority groups, however, would seem to be negatively affected by 2-1/2.19

This conclusion, though tentatively phrased, reflects the obvious fact that the sheer numbers-- rather than simply proportions-- of minority students are far greater in cities than in small resort towns.

Notes to Chapter II

1. David Mehegan, "Trouble in the Teaching Profession," Boston Globe, Oct. 17, 1982.

2. Calculated from statistics provided by Roger Hatch, Planner/Analyst, Bureau of Data Collection/Processing, Massachusetts Department of Education, telephone interview, Dec. 7, 1982 (hereafter cited as Hatch Interview).

3. Ibid.

4. Roger Hatch, Planner/Analyst, Bureau of Data Collection/Processing, Massachusetts Department of Education, letter to Larry Riedman, New England Regional Office, U.S. Commission on Civil Rights, Aug. 24, 1982.

5. Hatch Interview.

6. Kirk Scharfenberg, "Massachusetts Public Schools: A Quiet Crisis," Boston Globe, Nov. 21, 1982.

7. Impact 2-1/2, no. 28 (June 15, 1982), p. 7.

8. Massachusetts Association of School Committees, The Impact of Proposition 2-1/2 on the Public Schools (April 1982), pp. 2, 14.

9. Maureen Wark, Equal Educational Opportunity Bureau, Massachusetts Department of Education, telephone interview, Dec. 1, 1982 (hereafter cited as Wark Interview).

10. Transitional Bilingual Education Act, MASS. GEN. LAWS ANN. ch. 71A (West 1982).

11. Calculated from Hatch Interview data.

12. Children With Special Needs Education Act, MASS. GEN. LAWS ANN. ch. 71 B (West 1982).

13. Wark Interview.

14. Eduardo Carballo, Title VII Program Director, Bureau of Transitional Bilingual Education, Massachusetts Department of Education, telephone interview, Dec. 8, 1982.

15. Morgan, p. 5.

16. Ibid., Table IV, p. 15.

17. Ibid.

18. Ibid., p. 5.

19. Ibid., p. 27.

III. MINORITY REPRESENTATION ON FACULTIES BEFORE AND AFTER PROPOSITION 2-1/2

The presence of significant numbers of minority teachers in Massachusetts' public schools is a fairly recent development. Figures given in this chapter suggest that minority teachers are proportionately overrepresented among recent hires. Indeed, some of the increases in the numbers of teachers in recent years of enrollment declines may be attributable in part to affirmative action hiring.

Comprehensive statistics on minority representation on Massachusetts' public school faculties are unavailable either for 1980-81 (the year immediately preceding Proposition 2-1/2) or for the 1981-82 school year when Proposition 2-1/2 was implemented. The Advisory Committee did obtain information about staff racial composition in 1980-81 for several dozen school districts, and these data (see Tables 2, 5, and 6) support several inferences. The Advisory Committee also solicited information from selected school districts on current minority representation on faculties, and the school district profiles below based on this information illustrate the types of changes and adaptations that have occurred since Proposition 2-1/2 went into effect.

Moreover, comprehensive, statewide figures for 1979-80 do appear in Tables 3 and 4, which give estimates for the numbers and occupations of minorities employed by the public schools for that peak year of teacher employment in the Commonwealth.

Prior to Proposition 2-1/2

A review of tables 2, 3, and 4 establishes that minority faculty representation was minimal in many districts even prior to 2-1/2. Table 3 for 1979-80, which gives estimates that are projected by EEOC from a careful survey of about half the State's districts, shows minorities representing 3.5 percent, 3.3 percent, and 4.4 percent of the elementary, secondary, and "other" teachers respectively. Estimates in companion Table 4 for the same year for these three types of teachers yield totals of 1,525 black teachers, 475 Hispanic, 139 Asian American, and 25 American Indian, out of a total of 62,878. With 430 public school districts in the Commonwealth,[1] this averages out to 3.5 blacks per school system, 1.1 Hispanics, an Asian American teacher in every third school system, and an American Indian in one of every 17 school systems.

Of course, with some large, urban districts employing scores of minorities, numerous other districts inevitably have none or perhaps a token one. Table 2 displays that a large proportion of the districts reviewed by the Advisory Committee had no minority teachers in 1980-81, while many others had but one or two. Even minimal attrition of minority teachers would have been tantamount to eliminating them in many districts. The numbers were so small that

NUMBERS OF MINORITY CLASSROOM TEACHERS IN SELECTED MASSACHUSETTS SCHOOL DISTRICTS, 1980-81

	Minority Classroom Teachers (Raw Numbers)						
	None	One	Two	Three	Four	Five to 14	15 or More
METCO (25 of 37)	Cohasset Lynnfield Milton Scituate Swampscott Walpole Westwood	Belmont Melrose Wayland Marblehead	Bedford Foxboro	Arlington Braintree Natick Reading	Hingham Rockland	Concord/Carlisle Lexington Sharon Wellesley	Framingham (23) Newton (46)
Non-METCO	Harwich Manchester Southbridge		Waltham	Ayer Somerville Weymouth	Taunton	Chelsea Leominster Pittsfield Quincy Barnstable* Falmouth*	Brockton (22) New Bedford (39)

SOURCE: 1980 EEO-5 Forms (filed January 1981 reflecting staff levels as of October 1980).

*Based on observation by Massachusetts Advisory Committee Members.

PARTICIPATION RATES (%) OF FULL-TIME EMPLOYEES IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS, 1979

MASSACHUSETTS

NO. OF DISTRICTS SAMPLED -- 214
NO. OF SCHOOLS INCLUDED ---- 1,936

RACE/ ETHNIC GROUP		TOT EMPL	% OF TOTAL	OFF/ ADM/ MAN	PRIN	ASST PRIN	ASST PRIN N.T.	ELEM TEACH	SEC TEACH	OTHER TEACH	GUI- DANCE	PSY- CHOL	LIB/ AUDIO VIS	CONS/ SUPER OF IN	OTHER PROF	TEACH AIDES	TECH	CLER/ SEC	SVC WKS	CRAFT	LAB
TOT	T	108,355	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	M	41,516	38.3	77.3	83.4	62.3	86.6	17.4	57.7	27.1	55.0	49.1	21.5	62.5	23.1	7.6	32.5	1.3	51.7	95.1	90.0
	F	66,839	61.7	22.7	16.6	37.7	13.4	82.6	42.3	72.9	45.0	50.9	78.5	37.5	76.9	92.4	67.5	98.7	48.3	4.9	10.0
WH	T	104,279	96.2	97.0	97.3	93.4	97.0	96.6	96.7	95.6	96.1	98.5	97.4	98.0	96.0	86.6	95.2	98.7	98.4	99.0	98.2
	M	40,312	37.2	75.9	81.0	59.2	84.5	17.1	56.3	25.5	53.4	48.8	21.2	61.8	21.9	5.1	31.6	1.2	50.7	94.1	88.6
	F	63,967	59.0	21.1	15.5	34.2	12.5	79.5	40.4	70.1	42.7	49.7	76.2	36.2	74.1	81.5	63.6	97.5	47.7	4.9	9.6
MIN	T	4,076	3.8	3.1	2.7	6.6	3.0	3.5	3.3	4.4	3.9	1.5	2.5	2.1	4.0	13.4	4.8	1.3	1.6	1.0	1.8
	M	1,204	1.1	1.4	1.7	3.1	2.1	0.4	1.4	1.6	1.6	0.3	0.2	0.8	1.2	2.6	0.9	0.1	1.0	1.0	1.4
	F	2,872	2.7	1.7	1.0	3.5	0.9	3.1	1.9	2.8	2.3	1.2	2.3	1.3	2.8	10.8	3.9	1.2	0.6	---	0.4
BL	T	2,904	2.7	2.5	2.2	5.4	2.7	2.4	2.3	3.2	3.0	0.9	1.6	1.5	3.0	9.1	3.9	1.1	1.3	0.5	1.5
	M	844	0.8	1.0	1.3	2.7	1.8	0.2	0.9	1.3	1.1	0.2	---	0.7	0.9	1.8	0.3	0.1	0.8	0.5	1.1
	F	2,060	1.9	1.5	0.9	2.7	0.9	2.2	1.4	1.9	1.9	0.7	1.6	0.8	2.1	7.3	3.6	1.0	0.5	---	0.4
HSP	T	921	0.8	0.3	0.2	0.7	0.4	0.8	0.6	1.0	0.6	0.7	0.4	0.3	0.8	3.8	0.9	0.2	0.3	0.3	0.4
	M	278	0.3	0.2	0.1	0.2	0.3	0.1	0.3	0.3	0.4	0.2	0.1	---	0.3	0.7	0.6	---	0.2	0.3	0.4
	F	643	0.6	0.1	0.1	0.5	0.1	0.7	0.3	0.7	0.2	0.5	0.3	0.3	0.5	3.1	0.3	0.2	0.1	---	---
AA	T	211	0.2	0.3	0.1	0.2	---	0.2	0.2	0.1	0.3	---	0.5	0.2	0.1	0.5	---	---	---	---	---
	M	59	0.1	0.2	0.1	---	---	***	0.1	***	0.1	---	0.1	---	***	0.1	---	---	***	---	---
	F	152	0.1	0.1	---	0.2	---	0.2	0.1	0.1	0.2	---	0.4	0.2	0.1	0.4	---	***	***	---	---
AI	T	40	***	---	0.1	0.2	---	---	---	---	0.1	---	---	0.1	0.1	---	---	---	---	0.2	---
	M	23	***	---	0.1	0.2	---	***	***	***	***	---	---	---	0.1	---	---	---	***	0.2	---
	F	17	***	---	---	---	---	***	***	0.1	***	---	0.1	---	***	***	---	---	---	---	---

***LESS THAN 0.05 PERCENT
NOTE: DUE TO ROUNDING, PERCENTAGES MAY NOT ADD TO 100.0

LEGEND :
TOT - TOTAL
WH - WHITE (NOT OF HISPANIC ORIGIN)
MIN - MINORITY
BL - BLACK (NOT OF HISPANIC ORIGIN)
HSP - HISPANIC
AA - ASIAN OR PACIFIC ISLANDER
AI - AMERICAN INDIAN OR ALASKAN NATIVE

SOURCE: ELEMENTARY-SECONDARY STAFF INFORMATION (EEO-5), EEOC, 1979; published in EEOC, Minorities and Women in Public Elementary and Secondary Schools, 1979 Report (September 1981).

OCCUPATIONAL EMPLOYMENT IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS BY RACE/ETHNIC/SEX GROUP, 1979

MASSACHUSETTS

NO. OF DISTRICTS SAMPLED -- 214
NO. OF SCHOOLS INCLUDED ---- 1,936

JOB CATEGORY	TOTAL EMPLOYMENT	MALE	FEMALE	WHITE*	TOTAL MINORITY	BLACK*	HISPANIC	ASIAN AMERICAN#	AMERICAN INDIAN**
TOTAL, FULL-TIME STAFF	108,355	41,516	66,839	104,279	4,076	2,904	921	211	40
OFFICIALS/ADMIN/MANAGERS	1,452	1,122	330	1,408	44	36	4	4	---
PRINCIPALS	1,927	1,608	319	1,875	52	44	4	2	2
ASST PRINCIPALS, TEACH	547	341	206	511	36	30	4	1	1
ASST PRINCIPALS, N.T.	1,056	914	142	1,024	32	28	4	---	---
ELEMENTARY TEACHERS	24,935	4,349	20,586	24,077	858	591	212	52	3
SECONDARY TEACHERS	32,125	18,528	13,597	31,076	1,049	749	204	79	17
OTHER TEACHERS	5,818	1,575	4,243	5,561	257	185	59	8	5
GUIDANCE	2,518	1,385	1,133	2,420	98	75	15	6	2
PSYCHOLOGICAL	572	281	291	563	9	5	4	---	---
LIBRARIANS/AUDIO-VISUAL	1,342	288	1,054	1,308	34	21	6	6	1
CONSULTANTS/SUPER OF INST	1,185	741	444	1,161	24	18	3	2	1
OTHER PROFESSIONALS	4,235	978	3,257	4,069	166	127	32	6	1
TEACHER AIDES	7,919	605	7,314	6,858	1,061	716	307	37	1
TECHNICIANS	332	108	224	316	16	13	3	---	---
CLERICAL/SECRETARIAL	6,473	84	6,389	6,388	85	69	13	3	---
SERVICE WORKERS	15,025	7,773	7,252	14,781	244	190	44	5	5
SKILLED CRAFT	613	583	30	607	6	3	2	---	1
LABORERS, UNSKILLED	281	253	28	276	5	4	1	---	---
TOTAL, PART-TIME	19,339	3,953	15,386	18,656	683	548	105	27	3
PROFESSIONAL/INSTRUCTION	11,004	1,522	9,482	10,471	533	442	82	9	---
ALL OTHER	8,335	2,431	5,904	8,185	150	106	23	18	3
TOTAL, NEW HIRES	5,019	1,300	3,719	4,790	229	128	87	12	2
PROFESSIONAL STAFF	3,636	1,063	2,573	3,468	168	98	58	12	---
NON-PROFESSIONAL STAFF	1,383	237	1,146	1,322	61	30	29	---	2

* NOT OF HISPANIC ORIGIN, # INCLUDES PACIFIC ISLANDERS, ** INCLUDES ALASKAN NATIVES
SOURCE: ELEMENTARY-SECONDARY STAFF INFORMATION (EEO-5), EEOC, 1979; published in EEOC, Minorities and Women in Public Elementary and Secondary Schools, 1979 Report (September 1981).

it is meaningless to talk of "percentages," "ratios," "underrepresentation," or other proportionate measures used in developing goals or quotas. The issue reduces to one of simple minority presence or absence -- Would school faculties become totally homogeneous as layoffs occurred?

The data in the tables also support the assertion that, in the period immediately prior to implementation of Prop 2-1/2, minority faculty were more vulnerable than their white colleagues to attrition in the form of layoffs. Although there is no comprehensive information available comparing the relative seniority levels of black and white teachers, information was obtained by the Advisory Committee on the race of "newly-hired" teachers -- in effect, a "least senior" group. Table 5 enumerates the only eight districts among the several dozen examined to have had minority "new hires" in 1980-81. The data show that 17 percent (19 of 117) of minority teachers were new hires, as compared to only 4 percent (114 of 3,018) of white teachers. On the one hand, this suggests that schools very recently had been pursuing affirmative action in hiring, but on the other it shows that in times of layoffs minorities were likely to be disproportionately represented among the first group laid off. Only about one in 25 white teachers was in this "least senior/most vulnerable" group, but fully one in six minority teachers were in it.

Table 5. PROPORTIONS OF WHITE AND MINORITY TEACHERS WHO WERE NEW HIRES IN 1980, SELECTED MASSACHUSETTS SCHOOL DISTRICTS

District	1980 White hires/total	%	1980 Min. hires/total	%
Framingham*	10/545	2	4/25	16
Newton*	28/612	5	7/46	15
Sharon*	6/156	4	1/7	14
Brockton	28/866	3	1/22	5
Upper Cape Voc. Ed. (Bourne, Falmouth, Marion, Sandwich, Wareham)	2/48	4	1/1	100
Chelsea	12/180	7	2/6	33
Leominster	6/229	3	2/4	50
Somerville	22/382	6	1/3	33
TOTAL	114/3018	4	19/117	17

*METCO School Districts

Source: Elementary-Secondary Staff Information (EEO-5), Equal Employment Opportunity Commission, 1980 (filed January 1981 reflecting staffing levels as of October 1980). Of 39 school districts reviewed by the Massachusetts Advisory Committee, only these eight reported the hiring of minority teachers in the period July-September 1980.

A similar but much less severe racial differential existed for new hires in the previous year (1979-80), when new hires (as estimated by the U.S. Equal Employment Opportunity Commission from its EEO-5 sample) were 6.3 percent (168 of 2,659) of minority teachers but only 4.6 percent (3,468 of 75,053) of white teachers.2

Sources of Data on Staffing

Measuring minority teachers' vulnerability to layoff is not the same thing as describing actual changes in their representation in the profession. As far as the Advisory Committee was able to determine, no government agency or professional or educational organization tabulated such changes during the implementation of Proposition 2-1/2.

Changes in staff by race typically would have been recorded by public school districts on Federal EEO-5 forms and submitted to the Equal Employment Opportunity Commission for inclusion in EEOC's Elementary-Secondary Staff Information Report. (Copies of the form are also filed with the school district, the State department of education, and the Office for Civil Rights of the U.S. Department of Education.) Breakdowns by gender and racial group in different categories of school employment are the main feature of the survey and reports. Similar information is included for "new hires," but data on those leaving the teaching profession (for whatever reasons) are absent.

Regrettably, this survey, which was established in 1973, was suspended for the 1981-82 school year (i.e., the first year of implementation of Proposition 2-1/2). Such a break in an important series of data could not have come at a more inopportune time for those concerned about the status of minority teachers in Massachusetts.

The EEO-5 Survey has been resumed for the 1982-83 school year, with forms scheduled for mailing to a sample of 7,800 of the country's 16,000 school systems in December 1982. Although the form and the sample procedure are unchanged, the survey will henceforward be undertaken on a biennial basis, rather than the annual sampling that took place up to the year it was waived. All districts of more than 1,800 students will be included in every survey, smaller ones less often.3

Within the next year, EEOC will make available EEO-5 data that can serve as "before and after" portraits of minority teachers in Massachusetts for the years straddling Proposition 2-1/2. The 1980-81 State aggregates will be published early in 1983, and the figures for the 1982-83 school year (with forms to be returned to EEOC by the districts no later than February 15, 1983) should be available on tapes in about six months.4

Although the Massachusetts Department of Education tabulated total staff changes by district for 1981-82, it did not classify these figures racially.

To attempt to learn the magnitude of minority teacher representation in the schools, and among those teachers who were laid off through the period of Proposition 2-1/2, the Advisory Committee wrote to or interviewed a number of school district officials. In the profiles below, the information obtained from the school authorities is supplemented by other interviews, by reports from the daily and educational press, and by aggregate staffing and layoff data collected by government agencies and professional organizations.

Table 6. STAFF CHANGES DURING IMPLEMENTATION OF PROPOSITION 2-1/2, SELECTED MASSACHUSETTS SCHOOL DISTRICTS

	Clssrm. Tchrs.by[1] Race, Fall 1980			Layoff Notices[2] to Prof. Staff, Fall 1981		Changes in[3] Reg. Ed. Tchrs.			
Dist.	Bl.	Other Min.	Tot.	#	%	80-1	81-2	#	%
BOSTON	Not available					3467	2970	-497	-14.3
BROCKTON	14	8	888	91	8.3	943	1125	+182	+19.3
BRKLINE	Not available			41	7.5	425	354	-71	-16.7
CAMBRDGE	Not available			129	16.1	554	431	-123	-22.2
FALMOUTH	Not available			43	14.3	245	225	-20	-8.2
HOLYOKE	Not available			36	6.7	428	323	-105	-24.5
LOWELL	Not available			53	6.8	788	610	-178	-22.6
MEDFORD	Not available			N.A.		522	399	-123	-26.6
NEW BDFD	31	8	796	77	7.3	790	901	+111	+14.1
NEWTON	42	4	658	76	10.5	696	707	+11	+1.5
PITTSFLD	7	1	544	122	17.5	643	437	-206	-32.0
SOMERVIL	1	2	415	76	13.0	505	420	-85	-16.8
SPRNGFLD	Not available			124	7.9	1076	1164	+88	+8.2
WALTHAM	1	1	457	97	16.1	490	393	-97	-19.8
WORCSTER	Not available			226	12.7	1377	1126	-251	-18.2

[1]Elementary-Secondary Staff Information (EEO-5), EEOC, 1980 (filed January 1981 reflecting staff levels as of October 1980). The figures include only elementary and secondary level classroom teachers, and exclude administrators and other school professionals (e.g., librarians).

[2]From Massachusetts Association of School Committees, Impact of Proposition 2-1/2 on the Public Schools (April 1982). The figures represent "number of nonadministrative, certified personnel who received notification of non-renewal or dismissal prior to the local decision concerning allocation of additional aid received in the lottery formula."

[3]From Massachusetts Department of Education, Bureau of Data Collection and Processing, "Teaching Staff in Public Schools, FY 81 and FY 82, For Regular, Special, Occupational, and Bilingual Education" (August 1982).

These aggregates (see Table 6) cannot be regarded as strictly comparable,5 and even in some instances are contradicted by information provided to the Advisory Committee by school officials and other sources. Nevertheless, they are useful as a backdrop to reported changes in the status of minority teachers.

After Proposition 2-1/2

The following profiles, despite their unevenness, provide some indication of the impact of Proposition 2-1/2 on minority faculty, of the range of adaptations school districts have attempted to mitigate that impact, and of the efficacy of legal protection and minority teachers' own efforts to protect their positions.

Boston

Boston's approximately 4,000 teachers in 1981-82 formed the largest teaching staff in the State, although this number represented a drop of about 1,000 over the previous year.6 Estimates of Boston teachers "laid off" in the past two years have totaled as high as 1,500, although recalls had reduced the number on "layoff status" as the 1982-83 school year opened to 812.7

The use of the term "layoff" is problematical. Those speaking in a narrowly technical sense use the term only in regard to tenured teachers, classifying provisional (those with fewer than three years seniority) teachers released as "not rehired."8 Other observers simply totalling the number of teachers involuntarily out of work use the term "layoffs" more loosely. In addition to producing disparate counts, these differences have a racial dimension, as can be seen below.

The Bay State Banner, a black weekly newspaper published in Boston, asserted that if the layoffs had followed strict seniority about three-quarters of current minority teachers would have lost their positions, reducing the proportion of black teachers to less than it was in 1974.9 In that year, the Federal District Court issued its decision finding that the Boston Public Schools were illegally segregated.10 At that time, only 5.4 percent of teachers were black.11 Robert Marshall, a vice president of the Black Educators Alliance of Massachusetts, has observed that 95 percent of Boston's black teachers have joined the system since 1974.12

However, the layoffs did not follow seniority. In 1981, Judge Arthur W. Garrity ordered that the percentage of minority teachers and administrators be maintained in the face of layoffs, orders that followed up earlier teacher hiring orders he had issued during the course of the desegregation case. In 1975, he had ordered the Boston school system to increase minority teachers to 25 percent. By 1981, 19 percent of the teachers were minority, and in June of that year, with layoffs looming, Garrity ordered that the proportion of minority teachers achieved by that date should be maintained.13

The result has been that 1,305 white teachers with tenure have been let go as less-senior black teachers remained in the schools.14 This angered many white teachers. Furthermore, a popular perception that all black teachers were being retained was created by the narrow application of the term "layoff" to tenured teachers. It is not widely known, as Marshall and Robert Pearlman, Boston Teachers Union budget analyst, point out, that from 500 to 600 black provisional teachers have been "not rehired" in the past two years.15 Barbara Fields, of the school department's office of equal opportunity, believes that when "laid off" and "not rehired" are grouped together, minorities and white teachers lost their jobs proportionately.16

Judge Garrity's order was appealed by the Boston Teachers Union, an action causing severe division in the union along racial lines with effects up to the national level. The Court of Appeals for the First Circuit upheld the lower court in February 1982.17 The Teachers Union then appealed to the Supreme Court. In October 1982, the U.S Supreme Court decided not to hear Morgan v. O'Bryant, effectively upholding the lower court's ruling.18 However, in November the Boston Teachers Union requested the Supreme Court to reconsider the appeal it had declined a month earlier to accept.19

As noted in the previous chapter, bilingual education is an area in which minority teachers have been concentrated. Boston's bilingual education staff grew by 65 from 1980-81 to 1981-82 as the other curricula lost jobs.20 Among those hired were about a dozen minority teachers to teach Hmong, Thai, and Cambodian bilingual programs. The teachers were refugees whose credentials had been lost in the process of flight and relocation. The department first hired them on a per diem basis as substitutes, then brought them in as regular teachers by obtaining waivers of State certification.21 Thus, minority representation has been enhanced by department initiative as well as by court action.

Brockton

Federal EEO-5 data given in Table 6 show that before Prop 2-1/2 about 2.5 percent (22 of 888) of Brockton's classroom teachers were minority. According to comparable figures supplied by the Brockton Public Schools, in 1981-82 the minority percentage rose to 3.3 percent (28 of 857), and rose further to 3.4 percent (29 of 817) the subsequent year. These data suggest that as many as 25 percent (7 of 29) of the minorities are recent hires and therefore nontenured. There are 16 black, 10 Hispanic, and three other minority classroom teachers in the system, as well as 14 minority group members in other professional positions.22

Brookline

For a number of years, Brookline has undertaken minority recruiting efforts cooperatively with other communities in Boston's

western suburbs-- Belmont, Concord, Lexington, Needham, Newton, and Wayland. This arrangement provides the districts with some capabilities single school systems lack, such as use of consultants to recruit minority teachers.23

This record provided the district with a good representation of tenured minority teachers as Proposition 2-1/2 loomed. Blacks and Asian Americans were the two most numerous minority groups on the faculty.24

In 1980-81, 7.7 percent (39 of 545) of the teachers were minority. By 1982-83, the percentage had risen to 7.8 percent (37 of 482), reflecting a decline of two minority teachers while white teachers declined proportionately more sharply. In the intervening year-- the initial budget cut year-- the district actually hired 40 teachers,25 even though as Table 6 shows the number of regular education teachers fell by 71 in that period. Non-tenured teachers "suffered significantly" when the budget cuts were implemented, though some subsequently were re-employed.26

Nine of the 1981-82 new hires were minorities, three of whom had worked in the system two years previously.27

Cambridge

Henrietta Attles, member of the Cambridge School Committee, told the Advisory Committee in the summer of 1981 that minorities accounted for 11 percent of the school department's work force, and and that the school department was working toward of goal of 20 percent black faculty.28 The prospect of layoffs coincided with the final phase of voluntary school desegregation, so school authorities were very conscious of the implications of minority layoffs for race relations in the schools.

Attles said that "under strict seniority, the minority staff would have been reduced to approximately three percent." The Cambridge School Committee responded by adopting a "channel system" for layoffs, and by considering race as well as seniority in layoff decisions. Under this procedure, minority teachers would represent 14 percent of faculty after layoffs.29 In the words of Mayor Alfred E. Vellucci, who also chairs the school committee, "In the event of layoffs the Committee chose to lay off according to 'senior most qualified' with racial representation being a determinant of qualifications."30

No layoffs of any tenured staff occurred as the 1981-82 school year approached. Thus, minority teachers were preserved; Attles reported that "every permanent minority teacher in channels 1 [grades K-3] and 2 [grades 4-8] has been maintained for the 1981-82 school year."31

The School Committee's decision to consider affirmative action when making layoffs led to litigation on the conflict between

seniority and affirmative action. The Cambridge Teachers Association filed suit in Federal Court charging that the school committee's decision not to use seniority as the sole basis for determining layoffs under Proposition 2-1/2 was illegal.[32] On the other side, according to Mayor Vellucci:

> The plaintiff-intervenors entered the case on behalf of minorities, asserting...there should be no minority layoffs at all and further asserting that due to alleged (yet never proven) past discrimination there should be an accelerated affirmative action program as well.[33]

The mayor describes his perception of that situation in this way:

> I believed that the questions at issue were questions that affected the very heart and soul of our School System and, by extension, our City. This was no minor dispute over tangential legal issues. This was a central public policy debate over what type of school system we should have, what type of city we had, and ultimately, about what type of people we were. The values we held for ourselves and our children were on the table for discussion, but all were ready to leave the table and let the lawyers take their lawyer-talk to the judge.
>
> ...I felt there would be an inevitable sadness to any decision reached in court for we as a family would not have reached it ourselves together....[34]

Mayor Vellucci initiated a series of meetings among the parties:

> I asked all sides to talk; to mediate, to postpone court actions. Finally, all agreed.
>
> And so we talked, and we talked and we talked, right in the Mayor's Office over many days and nights. I fed everyone, I tried to make all feel at home. The sessions ran through weekends; mornings often ran into afternoons, afternoons ran into evenings, and sometimes evenings ran on into mornings again.
>
> * * * * *
>
> When it was all over, we went to court after all, but not as litigants. We went with a settlement, our own settlement and gave it to the judge for his signature.[35]

A consent decree settling the case was worked out by the Cambridge Teachers Association, the Cambridge School Committee, and the group of intervenors representing minority parents, teachers, students, and administrators. The agreement reached calls for minority teachers and administrators to be preserved from layoff, but for teachers displaced during cuts in 1981 to be hired (or, rehired) ahead of new minority applicants within specific layoff categories.[36] The agreement's terms provide, according to the mayor:

> Stronger language, remember, than the union had sued over originally. Yet after the process of mediation, that 85 percent white union voted by a two-thirds margin to include in their contract the sentence: NO MINORITIES WILL BE LAID OFF AS A RESULT OF A REDUCTION IN FORCE. For new hires, we shall try to hire three (3) minorities for every four (4) openings. They supported that as well. The family had begun to heal its own wounds.37

Not long after the union approved the agreement, it was approved by the court.

The mayor views the situation as an evolving process, noting, "We will have future fights, in fact we have. We will disagree over implementation; but, we are so much further along that we will never go back to where once we were."38

A dispute over application of the agreement emerged as the 1982-83 school year opened and a dozen nonminority applicants were proposed as new hires. The department subsequently hired six and postponed the rest. Minorities in the current school year represent 11.5 percent of Cambridge's 767 teachers and administrators.39 Concurrently with implementing the agreement on layoffs and rehiring, the Cambridge School Department commenced a campaign to recruit minority teachers, including advertising and interviewing in Connecticut.40 These measures worked to the point of obtaining a black from outside the district to head the science curriculum.

The arrangement hit another snag in November, when the director of the school department's office of desegregation resigned in protest after the department failed to hire a minority candidate in she called "the first real test of the policy."41 With respect to the same appointment, the minority intervenors have asked the court to decide whether the school committee's decision violated the consent decree.

Despite these difficulties in implementation, Mayor Vellucci believes the process carried out in Cambridge offers "lessons for politicians":

> When the values of your school system are in trouble you must put yourself on the line in the interest of a solution. You must get into the middle of the battle yourself and put your own political capital behind a fair solution, political fallout be damned. If you won't do it to heal your school system then you ought to get out of politics and take up another line of work. The very worst that can happen to you is that you will lose your next election in the interest of something that is ultimately more important than your next election.
>
> A mediated settlement is always preferable to a court-ordered settlement, regardless of the outcome for your particular point

of view. Families go to court for divorces and then go their separate ways. "Families" such as school systems are different; we must all return to the same house and continue to live together. The rules that determine how we live there should be our own rules, reached together and agreed upon by all.

People will have a stake in making the outcome work if the outcome itself is their own.

As elected officials, we have an affirmative obligation to try.[42]

Falmouth

Table 6 shows that Falmouth lost 20 regular education teachers as Prop 2-1/2 was implemented, a relatively small percentage decline in comparison to other districts in the table. Apparently minorities' level of seniority was relatively low, for even with this relatively small decline, school officials discussing the school district's affirmative action program have noted that many minorities the system had employed were laid off as a consequence of Prop 2-1/2. This led the district's affirmative action committee to complain that "the school staff does not reflect the racial and cultural diversity of Falmouth...in spite of concerted efforts by the school administration..."[43] The Advisory Committee has been told that Falmouth lost a black guidance counselor and that an experienced black classroom teacher was given notice, though the latter eventually was retained. In the fall of 1982, Falmouth hired 13 professionals, none of them minority.

Holyoke

The city of Holyoke has experienced rising Hispanic enrollment for 10 years, and commenced a voluntary school desegregation program simultaneously with implementing Proposition 2-1/2. Layoffs of about 15 percent of the teachers occurred in 1981-82 as Proposition 2-1/2 went into effect, with a score of teachers rehired through Federal desegregation funds.[44]

For the four-year period extending from before Prop 2-1/2 into the current year, Holyoke experienced the following shifts in levels of minority proportion of total professional staff: 1979-80-- 18 of 607 (3 percent); 1980-81-- 31 of 584 (5.3 percent); 1981-82-- 38 of 567 (6.7 percent); 1982-83-- 33 of 527 (6.3 percent).[45] The number of minority teachers increased during the first three years even as overall staff steadily declined, but in the final year, minorities fell even more sharply than the overall staff level.

The general stability of the minority representation probably is attributable to the fact that most of these teachers are bilingual education teachers, for the State department of education reports that all the minority hires during the past three years were

language minorities. This extended failure to hire blacks led the department to find prima facie denial, and the situation is now being monitored by the department's Springfield office.46

Although State figures indicate that the number of bilingual teachers fell by seven (from 58 to 51) from 1980-81 to 1981-82,47 the school department's figures show that the number of minority members on staff rose, so apparently this decline was absorbed by white teachers.

Lowell

Lowell has been attempting to use a magnet program to overcome minority racial isolation in several schools, apparently with limited success.48

Table 6 (listing aggregates not strictly comparable) shows Lowell as experiencing a decline of 178 regular education teachers, although only 53 layoff notices were sent to the larger category, professionals, as the lottery-formula State aid was awaited. This suggests that high attrition from other causes may have reduced the need to use layoffs to bring the staff level down.

Fifteen teachers were laid off in 1981-82, and an additional 12 in the current school year. Two black teachers have been on the staff throughout this period, having had enough seniority to avoid layoff.49 Lowell provides an example of the situations described in Table 2, where the number of black teachers is so small that the next staff reduction, even a modest one, could eliminate this representation from the district entirely.

Nine minority teachers are among the 31 teachers employed in Lowell's bilingual programs, which are mandated by specific legislation, so they have remained in those positions. However, all the Indochinese bilingual teachers, who were on a per diem basis, lost their positions. The rehiring of some of these and other laid-off teachers as substitute teachers initiated a dispute between the teachers' association and the administration.50 The State Department of Education is now working with Lowell to arrange waiver of certification for Southeast Asian bilingual teachers, as was recently done in Boston.51

Medford

Medford has been attempting since the 1970s to correct racial imbalance, using, like Lowell, a magnet program. The sole minority teacher at one of the two magnet schools was laid off as a consequence of Proposition 2-1/2. This led the citizens' committee associated with the school to request that magnet programs be exempt from seniority-based RIFs; the school committee agreed.52

According to State Department of Education figures in Table 6,

the number of regular classroom teachers in Medford fell from 522 in 1980-81 to 399 in 1981-82, a decline of 23.6 percent. Gwendolyn Blackburn, supervisor of multicultural education for the district, told the Advisory Committee as the 1981-82 school year commenced that strict systemwide seniority in the layoff process would have eliminated 12 or 13 of the district's 16 minority faculty, but use instead of departmental seniority resulted in the layoff of only two tenured and three nontenured minority teachers.[53] This arrangement brought the proportion of minorities laid off to a level fairly close to the overall proportion of layoffs, instead of a rate that would have been more than triple the overall rate.

New Bedford

Although fifty-four teachers were laid off in the spring of 1981,[54] Table 6 indicates that New Bedford came through the year of implementing the tax rollback with 111 more regular education teachers than the district employed the previous year, a 14.1 percent rise. The layoffs the district experienced apparently came in the areas of occupational education and bilingual education, which declined by 46 and 6 teachers, respectively.[55]

In the spring of 1982, as the department prepared for the second year of 2-1/2, 38 teachers were laid off, including four minority teachers. Three of the four were recalled in the fall, and there was a minority new hire, so the level of minority faculty did not decrease from spring 1982 to fall 1982.[56]

The figures in Table 6 suggest a disparate rate of issuing of layoff notices to minority teachers, although the numbers are too small to support firm conclusions. The total number of minority teachers in this time of budget cuts could not have been much higher than the 39 present in 1980-81; the laying off of four of these gives a rate of about 10 percent. In contrast, the remaining 34 layoffs of nonminority teachers out of a nonminority staff of about 850 yields a rate of about five percent.

Newton

Newton has cooperated since 1968 with Brookline and other suburban school districts in recruiting minority teachers. Various strategies and models have been tested during this period. Thomas O'Conor, Assistant Director of Personnel for the Newton Public Schools, estimates that 450 minority educators have been attracted to the Boston area through these efforts. Newton recruits nationally.[57]

Over the past 12 years, the number of minorities on the district's professional staff rose 105 percent as overall professional staff dropped 36.6 percent. Moreover, the retention rate for minority staff has been at 80 percent, compared to an overall rate of 70 percent.[58]

These data suggest that minority teachers likely were equivalent to or higher than their white colleagues in seniority when Proposition 2-1/2 became effective. In any event, Newton's contract does not call for strict seniority, but for a range of factors such as the needs of the system and quality of a teacher's recent evaluation.[59]

Moreover, the system has provisions for early retirement and for "alternative employment leave," through which teachers embarking on other careers retain an option to return to teaching. These alternatives and the uncertainty created by Proposition 2-1/2 led some teachers to leave the Newton schools voluntarily. These unanticipated vacancies enabled the district to continue minority recruitment as the budget cuts went into effect.[60]

According to Table 5, seven of Newton's 46 minority classroom teachers in 1980-81 had been new hires in the fall of 1980, and thus were highly vulnerable to layoff. However, no tenured minority teachers were laid off as a result of Prop 2-1/2, and the number of minority teachers actually rose in 1981-82.[61]

In 1980-81, minority group members accounted for 8.5 percent of the professional staff, and this percentage rose to 9.9 percent the next year. (Bilingual education teachers are not included in these figures.) The number of minority staff rose by three (from 81 to 84) as a total of 106 positions disappeared from the table of organization. In the current year, the percentage has held steady, although the number has dropped by three-- to the pre-2-1/2 level of 81.[62]

The affirmative action staffing report submitted to the superintendent in December 1982 summarizes:

> Since the total professional staff decreased by 3.75 percent and the minority staff decreased by 3.4 percent, it is clear that the impact of decreased mobility, lower turnover, and reduction-in-force was equivalent as opposed to the incremental annual gains since 1978 in minority staffing.
>
> * * * * *
>
> The major concerns at this time deal with the limitations on the capacity of school systems to assure reasonable opportunity for employment periods beyond one contractual year. The continuing effects of Proposition 2-1/2 will continue the cycle of short-term employment, annual displacement and rehiring for individuals for the forseeable future.[63]

Pittsfield

The data in Table 6 show a very small proportion of minority classroom teachers in Pittsfield prior to Prop 2-1/2, and severe reduction of regular education teachers in the wake of the tax cuts. More than 100 teachers were laid off when Prop 2-1/2 was

implemented at the start of the 1981-82 school year, and about a quarter of these subsequently were recalled.

The contract provision requiring layoffs by seniority was followed in Pittsfield. There were nine black teachers in the system prior to the layoffs, some with enough seniority to avoid being laid off. Three black teachers and a black librarian were laid off, two recall offers were made later, and one of the four returned to the system reclassified as a media specialist to facilitate her return. The only Hispanic teacher in the system was laid off and not rehired. The school department proposed that an option not to lay off minority teachers be incorporated into the contract, but the teachers association did not accept this. The department tried to retain some minorities in positions not covered by collective bargaining; for example, a more-senior parent coordinator who was white was laid off and a less-senior black was retained in that position, because there were so few black staff in the system.[64]

Somerville

Somerville shows the same pattern in Table 6 as Pittsfield, with few minorities prior to Prop 2-1/2 and severe reduction in staff during implementation of the measure.

Though layoffs in Somerville followed strict seniority lines, no minority teachers were laid off as a result of Prop 2-1/2 (even though, as Table 5 indicates, one of these minority teachers was a new hire in the fall of 1980). The number of minority professional staff has remained the same from 1981-82 into 1982-83, with three black teachers and one black principal. Most laid-off teachers later were recalled.[65]

Springfield

Springfield has been carrying out a racial balance plan since 1974, and declining overall enrollment combined with increasing minority enrollment have caused consolidation in the district in addition to that caused by budget cuts.[66]

Although Springfield issued more than a hundred layoff notices to professional staff in the period prior to arrival of State aid (as Table 6 shows), actual staff reductions apparently were small, as the number of regular education teachers rose substantially (by 8.2 percent) from 1980-81 to 1981-82. However, the State Department of Education lists a decline of 10 bilingual education teachers in the district.[67]

In May 1981, a majority of the black teachers in the Springfield Public Schools (85 of 161) had been notified that they would be laid off. Prior to the layoffs, blacks represented 8.9 percent of the teaching staff. By August 20, 1981, recalls had been made to 332

teachers, including 48 blacks. However, by September 1981 the MCAD had received 22 complaints from minority teachers alleging discrimination in the Springfield layoffs.[68] These cases still are pending with the MCAD.[69]

No tenured teachers, minority or nonminority, were laid off during implementation of Proposition 2-1/2. Minorities in 1982-83 represent about 14 percent of the teaching staff in the system. Affirmative action is the only remaining issue being bargained in a contract now being negotiated.[70] The school committee has proposed that proportional affirmative action by discipline replace straight seniority.[71]

Waltham

Waltham had minimal minority classroom teachers (two of 457) in the fall of 1980, according to Table 6, and lost nearly a fifth of its regular education teachers the subsequent year.

Apparently proportionately more white than black teachers were laid off. Waltham RIFfed approximately 100 teachers in 1981-82. However, overall representation of minority teachers rose as Prop 2-1/2 was implemented, from 0.6 percent in 1980-81 to 1.4 percent in 1981-82. This increase consisted of increases in minority full-time teachers from 0.3 percent to 0.9 percent and minority part-time teachers from 3.6 percent to 8.9 percent. In the current year, staffing has stabilized.[72]

Worcester

In April 1981, Worcester laid off 163 teachers, 19 of whom were minority. Of these 19, 12 filed a civil suit in Worcester Superior Court alleging several forms of illegal racial discrimination.[73] The Lawyers Committee for Civil Rights Under Law of the Massachusetts Bar Association, which represented the teachers, explained:

> ...the City and School Committee violated the collective bargaining agreement by laying off a disproportionate number of minority tenured teachers in violation of a provision in the contract which expressly states that layoffs shall be governed by the intent of the affirmative action policies.[74]

The plaintiffs also asserted in their complaint that the union had failed to represent them fairly by failing to request arbitration of the layoff procedure, and that the union and the school department had conspired to violate civil rights laws. Though the case is still pending, the judge did order the Educational Association of Worcester to request arbitration and enjoined the layoff of minority teachers pending the arbitration decision. The arbitrator ruled against the minority teachers, who have appealed that decision to the State court of appeals.[75]

As of spring 1982, Worcester had issued layoff notices to an additional 393 teachers, of whom 26 were minority.[76] By the start of the 1982-83 school year, nine minority teachers who were newly laid off had joined the other 12 plaintiffs in the suit charging discrimination by the Education Association of Worcester, the Worcester School Committee, and the Massachusetts Teachers Assocation, bringing the total to 21 plaintiffs.[77]

The Advisory Committee has been told that six of the original 12 have left teaching for other work despite the court order enjoining their layoffs, a development which illustrates the discouraging effect of uncertainty about career prospects.

Regarding the net effect of Proposition 2-1/2 on minority staffing, Worcester School Superintendent John E. Durkin observed that as of November 1982, the "Proposition has had little effect on the reduction of minority staff." He reported the layoff and subsequent re-employment of five permanent minority teachers, and the issuing of April 1982 non-renewal notices to three minority bilingual teachers. However, he added, "We do expect to lay off minority staff, again, in accordance with Proposition 2-1/2...[I]t has a real potential of reducing past affirmative action gains.[78]

While the larger districts in the Commonwealth, such as those discussed above, often appear to have had minority teachers with sufficient seniority to weather a retrenchment, or to have sufficiently large staffs that creative reorganization can be used to retain minorities, or to have minority teachers' organizations with sufficient resources and sophistication to force the layoff question into the courts, this is not the case in many suburban districts. As Table 2 showed, the number of minorities on staff in such districts are likely to be minimal, and with smaller staffs there are likely to be fewer options.

Wakefield

One such smaller district, Wakefield, illustrates the situation. State Department of Education statistics show the district's number of regular education teachers fell from 256 to 227 between 1980-81 and 1981-82.[79] With regard to minorities:

> Wakefield has not had to reduce nor expects to reduce any permanent minority teachers next year. We do have a minority person funded by the METCO program who was RIFfed at the close of school last year and was returned. Her permanency rests on continued funding.[80]

In this instance, the minority teacher is present in the school specifically because of the regional desegregation program, METCO, and the district apparently is unable to find an alternative means to keep her on staff.

Notes to Chapter III

1. Boston Globe, Nov. 11, 1982.

2. U.S. Equal Employment Opportunity Commission, Minorities and Women in Public Elementary and Secondary Schools, 1979 Report (September 1981), pp. 98-101.

3. Mary Pfeiffer, EEO-5 Coordinator, Survey Branch, Equal Employment Opportunity Commission, telephone interview, Dec. 7, 1982.

4. Ibid.

5. The aggregates are problematical, in that different definitions or classifications of "teachers" were used by the different organizations that tabulated layoff and staffing figures. The three data sources and classifications referred to in the district profiles (and in Table 6) are:

   Classroom Teachers By Race, Fall 1980. These figures from the Federal EEO-5 Survey are included to provide a sense of the level of minority teachers prior to implementation of Proposition 2-1/2. The EEO-5 counts cited by the Advisory Committee include only elementary and secondary level classroom teachers, and exclude administrators and other school professionals (e.g., librarians).

   Non-renewal or Dismissal Notices Sent to Professional Staff, Fall 1981. These figures (predating arrival of State aid based on the lottery formula) collected by the Massachusetts Association of School Committees are included to illustrate the depth of anticipated cuts and the extent of uncertainty created among school professionals. According to MASC, "professional staff" are "non-administrative certified personnel."

   Change in Regular Classroom Teachers, 1980-81 to 1981-82. These figures from the Massachusetts Department of Education are included to indicate the general reduction of teaching opportunities as Proposition 2-1/2 was implemented. "Regular classroom teachers" includes substitutes, but excludes bilingual, special education, and occupational education teachers.

Boston Notes

6. Massachusetts Department of Education, Bureau of Data Collection and Processing, "Teaching Staff in Public Schools, FY 81 and FY 82, For Regular, Special, Occupational, and Bilingual Education" (August 1982)(hereafter cited as State Tables).

7. Boston Globe, Oct. 5, 1982.

8. Barbara Fields, Senior Officer, Office of Equal Employment Opportunity, Boston Public Schools, telephone interview, Dec. 9, 1982 (hereafter cited as Fields Interview).

9. Bay State Banner, July 15, 1982, p. 6.

10. Morgan v. Hennigan, 379 F. Supp. 410 (D. Mass. 1974), aff'd sub nom. Morgan v. Kerrigan, 509 F.2d 580 (1st Cir. 1974), cert. denied, 421 U.S. 963 (1975).

11. Morgan v. Hennigan, 379 F. Supp. at 463.

12. Equal Education in Massachusetts: A Chronicle, September 1982, p. 7 (hereafter cited as Chronicle). This monthly publication of the Horace Mann Bond Center for Equal Education at the University of Massachusetts, Amherst, reports Federal, State, and district-level developments concerning equal educational opportunity; it is edited by Meyer Weinberg.

13. Morgan v. O'Bryant, No. 81-1561 (D. Mass. June 2, 1981).

14. Boston Globe, Oct. 5, 1982.

15. Chronicle, September 1982, p. 7.

16. Fields Interview.

17. Morgan v. O'Bryant, 671 F.2d 23 (1st Cir.) 1982).

18. Morgan v. O'Bryant, cert. denied, 51 U.S.L.W. 3254 (U.S. Oct. 4, 1982)(No. 81-2124).

19. Boston Globe, Nov. 11, 1982.

20. State Tables.

21. Wark Interview.

Brockton Notes

22. Brockton Public Schools, "Racial Breakdown of Staff, 1981-82," and "Racial Breakdown of Staff, 1982-83," Nov. 15, 1982.

Brookline Notes

23. William Sheridan, Personnel Director, Brookline Public Schools, telephone interview, Dec. 9, 1982.

24. Ibid.

25. Ibid.

26. Ibid.

27. Ibid.

Cambridge Notes

28. Henrietta Attles, "The Cambridge School Committee and the Problem of Layoffs," in Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, Teacher Layoffs, Seniority, and Affirmative Action (May 1982), p. 28 (hereafter cited as Attles Paper).

29. Ibid., p. 28.

30. Alfred E. Vellucci, Mayor and School Committee Chair, City of Cambridge, "Political Obligations: Affirmative Action, Seniority, and Layoffs (The Judge Didn't Run for School Committee-- You Did!)" (paper submitted to Massachusetts Advisory Committee to the U.S. Commission on Civil Rights), Dec. 13, 1982 (hereafter cited as Vellucci Paper).

31. Attles Paper, p. 28.

32. Cambridge Teachers Assoc. v. Cambridge School Committee, No. 81-143T (D. Mass. filed June 1981).

33. Vellucci Paper.

34. Ibid.

35. Ibid.

36. Chronicle, September 1982, p. 10.

37. Vellucci Paper.

38. Ibid.

39. Boston Globe, Sept. 26, 1982.

40. Cambridge Tab, Sept. 29, 1982.

41. Dorothy Jones, Director, Office of Desegregation, Cambridge Public Schools, letter to William C. Lannon, Superintendent, Cambridge Public Schools, Nov. 9, 1982.

42. Vellucci Paper.

Falmouth Notes

43. Chronicle, September 1982, pp. 10-11, quoting report of Affirmative Action Committee, Falmouth Public Schools.

Holyoke Notes

44. Chronicle, March 1982, p. 2.

45. George W. Counter, Superintendent, Holyoke Public Schools, letter to Bradford E. Brown, Chair, Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, Sept. 16, 1982.

46. Wark Interview.

47. State Tables.

Lowell Notes

48. Chronicle, September 1982, p. 12.

49. Henry Mroz, Superintendent, Lowell Public Schools, telephone interview, Nov. 1, 1982; George Tsapataris, Lowell Public Schools, telephone interview, Nov. 3, 1982.

50. Wark Interview.

51. Ibid.

Medford Notes

52. Chronicle, September 1982, pp. 18-19.

53. Gwendolyn Blackburn, "Our Schools Need Minority Teachers," in Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, Teacher Layoffs, Seniority and Affirmative Action (May 1982), p. 30.

New Bedford Notes

54. Constantine Nanopoulis, Superintendent, New Bedford Public Schools, telephone interview, Nov. 2, 1982 (hereafter cited as Nanopoulis Interview).

55. State Tables.

56. Nanopoulis Interview.

Newton Notes

57. Thomas O'Conor, Assistant Director of Personnel, Newton Public Schools, telephone interview, Dec. 9, 1981 (hereafter cited as O'Conor Interview).

58. Ibid.

59. Ibid.

60. Ibid.

61. Helen Thomas, Personnel Department, Newton Public Schools, telephone interview, Oct. 28, 1982.

62. O'Conor Interview.

63. Newton Public Schools, Division of Personnel, "Affirmative Action Staffing of the Newton Public Schools for the 1982-1983 School Year," memorandum to John M. Strand, Superintendent, Dec. 7, 1982.

Pittsfield Notes

64. Charles Bordeau, Assistant Superintendent for Personnel and Business, Pittsfield Public Schools, telephone interview, Oct. 28, 1982.

Somerville Notes

65. Daniel Macero, Assistant Superintendent of Personnel, Somerville Public Schools, telephone interview, Oct. 28, 1982.

Springfield Notes

66. Chronicle, June 1982, p. 7, and September 1982, p. 14.

67. State Tables.

68. Chronicle, September 1981, p. 7.

69. Margaret Dale, Staff Attorney, Massachusetts Commission Against Discrimination, telephone interview, Dec. 8, 1982.

70. Thomas A. Donahoe, Superintendent, Springfield Public Schools, telephone interview, Oct. 13, 1982.

71. Wark Interview.

Waltham Notes

72. Isabel Telanian, Secretary to Superintendent John Daddona, Waltham Public Schools, telephone interview, Nov. 1, 1982.

Worcester Notes

73. Chronicle, September 1981, pp. 8-9.

74. Lawyers Committee for Civil Rights Under Law of the Massachusetts Bar Association, Annual Report (May 1982), pp. 12-14.

75. Ibid.

76. Ibid., pp. 13-14.

77. Chronicle, September 1982, p. 15.

78. John E. Durkin, Superintendent, Worcester Public Schools, letter to Larry Riedman, New England Regional Office, U.S. Commission on Civil Rights, Nov. 16, 1982.

Wakefield

79. State Tables.

80. Rudy A. Fuedo, Assistant Superintendent for SPED/Pupil Services, Wakefield Public Schools, letter to Bradford E. Brown, Chair, Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, Sept. 28, 1982.

IV. LEGAL AND POLICY QUESTIONS

Critical policy and legal issues present themselves in situations where school systems are forced to undertake massive layoffs. Reductions-in-force place the principles of affirmative action and seniority in direct conflict. In most school systems collective bargaining agreements provide that seniority should be the prevailing factor governing many employment decisions such as layoffs.

As was noted in Chapter II, it was not until the last few years that many school departments began hiring minority teachers and, as a result, minorities are usually junior in seniority to white teachers. When layoffs are based on the supposedly neutral policy of seniority -- last hired, first fired -- minority teachers suffer a disproportionate burden of these layoffs because they are least senior.

U.S. Commission on Civil Rights on Layoffs

On several occasions the U.S. Commission on Civil Rights has considered the difficult issues raised when seniority-based layoffs promise to eliminate the employment gains made by minorities in recent years. The Commission first addressed the issue in a publication studying the 1974-75 recession. In Last Hired, First Fired: Layoffs and Civil Rights, the Commission stated:

> Layoffs by seniority "lock in" the effects of past discrimination by continuing the advantage white males gained in employment by not having to compete with women and minorities. Since layoffs by seniority perpetuate the white male advantage in the labor market, the Commission believes that a fair application of Title VII law would require some limitations to that practice.1

In Last Hired, First Fired and in its 1981 statement on affirmative action, the Commission endorsed a proportional layoff procedure.2 Under the proportional layoff system, employees are laid off according to their percentages by race or ethnicity in the employer's workforce. However, the Commission has stated that if there are other means or methods short of layoffs that "would preserve the opportunities created by affirmative action plans with less impact on white male workers"3 these should be utilized. These methods include such ideas as voluntary early retirement, work-sharing arrangements, inverse seniority systems (where senior employees take temporary layoff with the right to return) and changes in unemployment compensation practice (e.g., the wages of people working less than a five-day week would be supplemented with unemployment benefits for the duration of the normal work week). Many of these ideas are included in the Massachusetts Advisory Committee's Teacher Layoffs report.

The Commission's newest report also takes up layoffs. Unemployment and Underemployment Among Blacks, Hispanics and Women concludes that employment and underemployment for minorities and women, while disproportionately high even in good economic times, are even higher during recessionary periods -- due in part to seniority-based layoff policies.[4]

Thus, the U.S. Commission on Civil Rights is clearly on record as supporting retention of minority representation in the face of reductions-in-force even if this means the abrogation of strict seniority principles.

Legal Considerations

In addition to the policy considerations discussed above, there are a number of legal issues involved in the conflict between seniority-based layoffs and retaining minority employment gains. The law in this area is still evolving; there are no clear answers or neat patterns that can be routinely applied. The rights of the respective parties -- senior white employees and junior minority employees -- will vary from situation to situation depending on such factors as the existence of a prior finding of discrimination against the employer or the language in a collective bargaining agreement.

Any challenge to a seniority-based reduction-in-force faces a number of legal obstacles. These obstacles plus the reality that litigation is a very expensive and time-consuming method of resolving differences makes it advisable for the concerned parties to work out an equitable layoff procedure rather than have the matter decided in court. Cambridge, as recounted in Chapter III, is an example -- a layoff procedure which accommodated both affirmative action concerns and seniority was reached through agreement, albeit after a suit had been filed in court.

In June 1982, the National Education Association issued a memorandum to its State officers and others concerning legal aspects of voluntary affirmative action. The NEA sounded several notes of caution about the potential legal liability associated with voluntary affirmative action, but at the same time suggested that latitude existed for such voluntary efforts. NEA noted that "only through affirmative action, which takes conscious account of race or sex, can the present effects of past discrimination be effectively eliminated."[5] NEA asserted after various cautions, "...it is our belief that the trilogy of Supreme Court affirmative action cases [i.e., Bakke, Weber, and Fullilove] leaves room for effective affirmative action to remedy discrimination in public education employment.[6]

NEA pointed out in the matter of layoffs:

> All other things being equal, preferences in regard to

hiring and promotion offer better prospects for success than do preferences in regard to layoffs or other employment decisions that require the termination of non-preferred employees. (Moreover, because of the back pay factor, preferences of the latter type are likely to expose the association to the greatest potential financial liability.)[7]

However, NEA notes, "the risk can be reduced substantially if the preferences consider race or sex not as the sole factor, but as one of several relevant factors."[8]

Minority teachers in the best legal situation are those whose employers, prior to any threat of layoffs, have been found by a court to have discriminatory employment practices and been ordered to remedy the situation. Where there is a prior judicial determination of discrimination and a court order to increase minority representation so as to remedy that discrimination, it is highly unlikely that a court would allow layoffs based upon seniority to wipe out gains made in minority hiring under the prior court order. That has been the situation in Boston. The Boston School Committee had been under court order to hire more minority teachers since 1975 as part of the court-ordered remedy in the school desegregation case.[9] As explained in the Boston profile in the preceding chapter, when layoffs became necessary in Boston, the court ruled that those layoffs could not reduce the percentage of minority teachers achieved pursuant to the court orders.

Similarly, in two law suits brought in the early 1970s the Boston police and fire departments were both found to have discriminated against blacks and Hispanics in hiring.[10] The court issued orders to remedy the discrimination, and ultimately consent decrees providing for ratio hiring were entered into by the parties and approved by the court. In the several years that the consent decrees were in effect, the percentage of minorities in the Boston Police Department increased from 3.6 to 11.7 percent and the percentage of minority firefighters in Boston rose from less than 1 percent to 14.7 percent.[11]

When layoffs were announced in 1981, both the police and fire departments planned to make these layoffs by seniority -- "last hired, first fired," in accordance with Massachusetts Civil Service law.[12] Had this procedure been used minority representation in both departments would have dropped dramatically, substantially wiping out much of the progress under the court orders. The Federal court refused to allow this to happen. The district court modified the consent decrees, which had no provisions pertaining to layoffs, and ordered that the minority representation in both departments be maintained despite the layoffs.[13] The Court of Appeals upheld the district court's decision;[14] the U.S. Supreme Court has agreed to hear the case this term.[15]

Most minority teachers or other public employees do not work for

employers who have been found guilty of unlawful discrimination and who thus are subject to court orders to increase minority representation in their workforces.

For most minority employees, a successful court challenge to a seniority-based layoff will be much more difficult than for Boston's teachers, firefighters and police officers. It will be necessary to prove in the first instance that the employer has engaged in employment discrimination in violation of the Federal or State laws or the Constitution. Plaintiffs would have to establish that an order from the court preserving minority percentages would be an appropriate remedy to the discrimination. This task is further complicated because under Title VII of the Civil Rights Act of 1964 -- the principal Federal employment discrimination law -- bona fide seniority systems are exempt.[16] This means that the normal operation of a valid seniority system would not be in violation of Title VII even if it had adverse effect upon minorities.[17] The Massachusetts Fair Employment Practices Act[18] has no such exemption for seniority systems and, presumably, it would be somewhat easier to challenge a seniority-based layoff as discriminatory under State law than under Federal.

As a matter of constitutional law it is not clear whether the courts will uphold voluntary plans which take race into account in determining layoffs. Under the equal protection clause of the Fourteenth Amendment, governmental classifications based upon race are inherently suspect and subject to strict scrutiny.[19] School boards would have to show that classifications based on race serve a compelling governmental interest in order to survive the strict scrutiny requirement under the Fourteenth Amendment.[20] Whether the courts will find procedures which consider race as a factor in layoff decisions to be constitutional remains an open question.

An Equal Education Perspective

An interesting perspective on the legal issues raised by layoffs in public education is set forth in a soon-to-be-published law review article, "The RIFfing of Brown: De-Integrating Public School Faculties."[21] The authors of this article assert that layoffs in public education must be viewed as an issue of educational opportunity and not of employment or labor law:

> RIFs in public education involve more than the competing interests of minority and non-minority employees. The crucial interest of the students transforms the conflict so that it no longer fits within the framework of labor law or employment discrimination law.[22]

The article points out that children have a constitutional right to an equal education and argues that this right requires an integrated education with an integrated faculty. The authors conclude that:

> RIF plans resulting in predominantly single race faculties are violative of those students' constitutional rights. The students have the constitutional right to demand the abrogation of bona fide seniority systems if that is the only way to ensure integrated faculties in public schools and protect their right to an equal public school education.23

Such considerations broaden the framework of the discussion of the conflict between affirmative action and seniority and may prove to be persuasive in the courts.

Notes to Chapter IV

1. U.S. Commission on Civil Rights, Last Hired, First Fired: Layoffs and Civil Rights (1977), p. 36.

2. U.S. Commission on Civil Rights, Affirmative Action in the 1980s: Dismantling the Process of Discrimination (1981), p. 36.

3. Ibid.

4. U.S. Commission on Civil Rights, Unemployment and Underemployment Among Blacks, Hispanics, and Women (1982), pp. 13, 56.

5. National Education Association, "Employment Affirmative Action Through Collective Bargaining: The Legal Framework" (June, 1982), p. 1.

6. Ibid., p. 19.

7. Ibid., pp. 20-21.

8. Ibid., p. 21.

9. Morgan v. O'Bryant, 671 F. 2d (1st Cir. 1982).

10. Castro v. Beecher, 334 F. Supp. 930 (D. Mass. 1971), 459 F. 2d 725 (1st Cir. 1972) [the police case]; Boston Chapter, NAACP v. Beecher, 371 F. Supp. 507 (D. Mass. 1974), 504 F. 2d 1017 (1st Cir. 1974), cert. denied, 421 U.S. 910 (1975) [the firefighters case].

11. See Boston Chapter, NAACP v. Beecher, 679 F. 2d 965, 970 (1st Cir. 1982).

12. MASS. GEN. LAWS ANN. Ch. 31, s.5 (West 1982).

13. Castro v. Beecher, 522 F. Supp. 873 (D. Mass. 1981).

14. Boston Chapter NAACP v. Beecher, 679 F. 2d 965 (1st Cir. 1982).

15. Boston Firefighters Union, Local 718 v. Boston Chapter NAACP; Boston Patrolmen's Assoc., Inc. v. Castro; Beecher v. Boston Chapter, NAACP, cert. granted, 51 U.S.L.W. 3329-30 (U.S. Nov. 1, 1982) (Nos. 82-185, 82-246, 82-259).

16. 42 U.S.C. s.2000e-2(h) (1976).

17. See International Brotherhood of Teamsters v. U.S., 431 U.S. 324 (1977), American Tobacco Co. v. Patterson, 102 S. Ct. 1534 (1982).

18. MASS. GEN. LAWS ANN. ch. 151B.

19. Korematsu v. U.S., 333 U.S. 214 (1944).

20. Loving v. Virginia, 388 U.S. 1 (1967).

21. Scott J. Davidson, Stuart W. Davidson, and Judith Hall Howard, "The RIFfing of Brown: De-Integrating Public School Faculties," Harvard Civil Rights-Civil Liberties Law Review, vol. 17, no. 2 (1982).

22. Ibid., November 1982 galley, p. 2.

23. Ibid., November 1982 galley, p. 3.

V. THE EDUCATIONAL DIMENSION

Many papers included in Teacher Layoffs, Seniority, and Affirmative Action assert that the presence of minority teachers in the schools provides important educational benefits for the students, both minority and white.

That report emphasizes the equal employment elements of the layoffs issue, and does not include any in-depth, systematic effort to document these educational benefits. The continuing controversiality of the layoffs issue, however, and the long-standing educational needs of minority students, convince the Advisory Committee that it is worth examining this dimension of the issue more closely. Another reason to do so is that these considerations are increasingly being taken into account in legal thought on the structuring of teacher layoffs, as the final section of this chapter reports.

Research on Roles of Minority Teachers

Fortunately, a current, thorough review of the educational research, prepared with full cognizance of the layoffs situation, has been assembled by Scott Davidson.[1] While the scores of studies Davidson surveyed include much very recent research, many of the studies were published in the mid-1970s and earlier, hence the insights and findings he recounts typically are familiar ones; nevertheless, his effort is unquestionably timely in light of the controversy over retention of minority teachers. Moreover, many specific findings corroborate specific points made by contributors to the Advisory Committee's prior report based on their professional experiences.

For example, Dr. George S. Smith, Equal Opportunity/Affirmative Action Officer for the Worcester Public Schools, told the Advisory Committee, "Minority staff members can...give special assistance to black and Hispanic students in the learning process by drawing from their own educational experiences."[2] Davidson associates this beneficial effect of minority teachers on minority students with the research finding that "...the school values, attitudes, and expectations of minority educators and minority learners are consistently complementary..."[3]

The same consistency of opinion holds true regarding effects of minority faculty on non-minority students. J. Harold Flannery, an attorney who has represented the Cambridge School Committee, wrote in the Teacher Layoffs report, "Non-minority children in particular will benefit attitudinally from the presence of minority adult role models and authority figures."[4] Davidson in turn is careful to point out that the presence of minority teachers in the schools does not benefit only minority students. The differing qualities of, for example, black and white teachers need not be off-setting but complementary. Davidson cites a 1976 study which found, "Whereas

black teachers valued courage, honesty, and independence, white teachers valued logic, obedience, and politeness."[5] All of these are qualities to which children should be exposed, and faculty desegregation may increase the likelihood that the student will encounter them.

Gwendolyn Blackburn, supervisor of multicultural education for the Medford Public Schools, told the Advisory Committee, "Contact and continuous interaction with black teachers aid in producing human beings who are more able to cooperatively confront and mutually resolve crucial social issues."[6] The perception that such a process exists also underlies Davidson's assertion that:

> The minority teacher actively dispels myths. The day-to-day interactions between minority and majority staff members and students helps to remove the misconceptions and stereotypic ideas held by both as a product of our national history of racism and enforced separation. For many majority students, the minority teacher can be the first and only experience of daily physical proximity to an influential minority adult.
>
> The minority staff member provides a positive image of authority and achievement to both minority and majority students.[7]

Davidson was quoted in the New York Times about the link between faculty integration and race relations between students:

> The presence of an integrated teaching staff affects dramatically the relationship of minority to majority students. The school is a social system unto itself. Without minority presence on the teaching staff, the power structure is dramatically unbalanced and the status of the minority students is diminished.[8]

(Another way of looking at this is that when minorities are disproportionately laid off, "White children will relearn the stereotype: blacks are more expendable," as was pointed out to the Advisory Committee by Shirley F.B. Carter, regional director of the Black Educators and Teachers Association.[9])

Both Davidson and Dr. Smith see special roles for minority teachers in raising the aspirations of minority students. Smith wrote, "Protected class members serve as role models in raising the level of goals, aspirations, and career objectives for all students, particularly minorities who suffer from oppression."[10]

Regarding the "pygmalion effect" in which students' good or poor performances correspond to the teacher's high or low expectations, Davidson reports, "Rosenthal and Rubin (1978) reviewed 345 studies on interpersonal expectancy effects and found more than adequate support for the 'pygmalion' principle (see also, Crano and Mellon, 1978; Stern and Keislar, 1977; Rothbart, et al., 1971;

Brophy and Good, 1970)."[11] Furthermore, "The literature identifies the student's ethnic, racial, or social/economic class background as major determinants of teacher expectations (Education Advocates Coalition, 1980; Prieto and Zucker, 1980; Jackson and Cosca, 1974; Jensen and Rosenfeld, 1974; Rist, 1970)."[12]

The racial variance in expectations becomes starkly visible in experiments in which the subjects (in the role of teacher) are given fictional IQ levels for members of an integrated class. Some of the results of such experiments have been:

> ...the black students were given less attention, ignored more, praised less, and criticized more than their white peers....the black students who had been labelled "gifted" and high IQ were given the least attention and praise and the most criticism, even when compared to their "non-gifted" black peers.[13]

> ...black tutors displayed significantly greater success in overcoming some of their experimentally induced low expectations for black children....The white tutors did not do this.[14]

Davidson concludes, "Studies have shown an abiding attitudinal difference between black and white educators over the past 25 years."[15]

In a related research finding that may bear not only on what goes on in the classroom but also on the current trend of teachers' leaving the profession, Davidson refers to the landmark 1964 study by Gottlieb:

> ...black teachers identified "institutional" factors, i.e., poor equipment, large classes, etc., as reasons for their job dissatisfaction, while white teachers emphasized "clientele" reasons, i.e., students' lack of ability, motivation, discipline, etc.[16]

In light of this, layoffs that disproportionately affect minorities may be eliminating teachers who would express their dissatisfaction by working for institutional improvements, while retaining others who may be taking out their dissatisfaction on the increasingly-minority students they serve. (Underlying the differing viewpoints of the black and white teachers -- as Gottlieb also found and Davidson summarizes -- was the circumstance that "while the black teachers described the children as 'happy', 'energetic', and 'fun-loving', the white teachers characterized the same children as 'talkative', 'lazy', and 'rebellious'."[17])

In the sometimes-volatile situation of a school in the midst of the desegregation process, minority faculty may play especially sensitive roles. In Teacher Layoffs, Henrietta Attles, a member of the Cambridge School Committee, stated, "Affirmative action and school desegregation go hand in hand."[18] So too Davidson finds a

particularly crucial role for minority faculty in schools undergoing desegregation:

> Student desegregation often exposes minority children to a heightened sense of cultural marginality. As such, role models of competent and powerful minority teachers and administrators can reinforce their own positive identity and self-esteem. This is particularly important in face of the unequal status the minority child brings to the newly desegregated school and the research of Kleinfeld (1972) that identifies the teacher as having an even greater impact than parents on the minority child's academic self-concept.19

Davidson summarizes his survey of this body of educational research:

> Together these studies are compelling. Race is a critical variable in the teacher-student relationship. A desegregated student body without a desegregated faculty is like a body without a head (excuse the hyperbole).20

Legal Recognition of the Educational Dimension

While, as can be seen from the dates of the studies Davidson cites, educators have long sensed the uniqueness and value of the roles that minority teachers perform, this has not been the case in the realm of law. Davidson observes:

> In the past, the courts chose to define the issue at hand [i.e., teacher layoffs] as, exclusively, one of employment practice. The argument has shifted and the courts are recognizing the standing of students and attending to their third-party interest in faculty desegregation.21

This development is the topic of a paper, "The RIFfing of Brown: De-integrating Public School Faculties," by Davidson, his brother Stuart W. Davidson, and Judith Hall Howard, to be published in the Harvard Civil Rights-Civil Liberties Law Review.22 Davidson characterize the article as:

> ...redefin[ing] the legal conflict as falling between: The property entitlement of a senior (read majority) teacher to his/her job and the students' (read minority students') right to equal educational opportunity. To turn a phrase, the conflict lies between a public servant and the public s/he serves.23

The authors note that:

> ...courts have made the degree to which faculties are segregated a measure of unacceptable segregation. [Dayton, 443 U.S., at 460-61 (1979); Swann, 402 U.S. at 18] In Columbus Board of Education v. Penick [Columbus Bd. of Educ. v. Penick, 443 U.S.

449], the Supreme Court explicitly noted that teacher segregation serves "to deprive black students of opportunities for contact with and learning from white teachers, and conversely, to deprive white students of similar opportunities to meet, know and learn from black teachers." [Id. at 467 (quoting Penick v. Columbus Bd. of Educ., 583 F.2d at 814)][24]

Among the points Davidson and his colleagues make in asserting a legal basis for the retention of minority teachers in spite of seniority provisions in contracts are:

> ...as public servants, public school teachers' interests must ultimately be reconciled with those of the public they serve.[25]
>
> * * * * *
>
> The authors conclude that federal statutory and constitutional law permits and perhaps even requires the dismissal of more senior white personnel ahead of minority faculty because of the overriding public interest in providing equal public education to all students.[26]

Though the use of these arguments to date has been rare and tentative, they will remain of interest as more and more school districts address the problem of layoffs.

Notes to Chapter V

1. Scott Davidson, "RIF and Race" (unpublished, 1982) (hereafter cited as "RIF and Race").

2. Dr. George S. Smith, "Affirmative Action in the Public Schools During Times of Psychological and Fiscal Recession," in Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, Teacher Layoffs, Seniority, and Affirmative Action (May 1982), p. 20 (hereafter cited as Teacher Layoffs).

3. "RIF and Race," p. 15.

4. J. Harold Flannery, "Layoffs and Affirmative Action: The Legal Issues and Reasonable Approaches," in Teacher Layoffs, pp. 14-15.

5. "RIF and Race," p. 9, on Sikula and Lembech, 1976.

6. Gwendolyn Blackburn, "Our Public Schools Need Minority Teachers," in Teacher Layoffs, p. 29.

7. "RIF and Race," p. 21.

8. New York Times, June 27, 1982.

9. Shirley F. B. Carter, "Minority Educators and Proposition 2-1/2," in Teacher Layoffs, p. 22.

10. Smith, in Teacher Layoffs, p. 21.

11. "RIF and Race," p. 5, on Rosenthal and Rubin.

12. Ibid., p. 6.

13. Ibid., p. 11, on Rubovitz and Maehr, 1973.

14. Ibid., p. 11, on Derlega, 1980, and Chaiken and Derlega, 1978.

15. Ibid., pp. 6-7.

16. Ibid., p. 8, on Gottlieb, 1964.

17. Ibid.

18. Henrietta Attles, "The Cambridge School Committee and the Problem of Layoffs," in Teacher Layoffs, p. 26.

19. "RIF and Race," p. 21, on Kleinfeld, 1972.

20. Ibid., p. 22.

21. Ibid., p. 2.

22. Scott J. Davidson, Stuart W. Davidson, and Judith Hall Howard, "The RIFfing of Brown: De-Integrating Public School Faculties," Harvard Civil Rights-Civil Liberties Law Review, vol. 17, no. 2 (1982).

23. "RIF and Race," p. 3.

24. "RIFfing of Brown," November 1, 1982, galley, p. 16.

25. Ibid, Nov. 1, 1982, galley, p. 7.

26. Ibid., Nov. 1, 1982, galley, pp. 4-5.

VI. CONCLUSION

The research presented in the previous chapters shows that, in many districts the Advisory Committee examined, minority faculty do not appear to have been disproportionately laid off, as was widely feared a year ago. However, their minimal presence in most districts, and data indicating that they are more recent hires than their white colleagues, suggest that the future of multi-racial staffing is in many districts perilous. In most districts, another increment of layoffs would again raise the prospect of eliminating the handful of minorities ("minority," the singular, is appropriate in many districts) and leaving a homogeneous teaching staff.

That wholesale layoffs of minority teachers did not occur is attributable fundamentally to two kinds of developments. One of these was legal action to protect minority teachers' jobs, either by minority organizations or by a court. For example, in Boston, an important factor in the retention of tenured, less-senior minority teachers has been the fact that the district is under court order. In Worcester, minority teachers were resourceful enough to obtain a measure of legal protection as layoffs loomed.

But legal actions tend to be highly adversarial, and focusing on them may appear to support the unfortunate but common belief that the controversies of the past year are reflections of an irreconcilable conflict between the principles of affirmative action and seniority, or even expressions of long-standing racial animosity. Despite resentments and tensions, in a number of communities examined by the Advisory Committee the problem was seen by school authorities as one that could be solved by compromise and creativity. The willingness and ability of those in authority in such school districts to work out compromises, or to take creative initiatives such as reclassifying staff, represent the second, more-encouraging force working to preserve faculty racial balance. The Advisory Committee believes this to have been the year's most encouraging development regarding teacher layoffs.

Data Collection and Dissemination

As noted in several chapters of this report, thorough information about the racial element in layoffs was hard to obtain. The absence of hard facts about a difficult situation such as the past year's layoffs can foster the types of resentments that emerged. For example, there is a volatile public perception that in the Commonwealth's largest school system, Boston, only white teachers have suffered, when in fact several hundred minority provisional teachers were let go.

Indeed, the statement that there have been no disproportionate layoffs must be taken as provisional, in that the Advisory Committee could find no comprehensive source of data on the situation.

Although Federal EEO-5 forms on staff racial composition that would have provided a thorough picture of the situation had been submitted routinely by Massachusetts school districts for years, the survey was waived in 1981-82. The Advisory Committee's inquiries to school departments found that many had stopped maintaining these data, even though there was a great probability that the survey would be resumed.

The EEOC is resuming the EEO-5 survey on staff racial composition for the 1982-83 school year. Particular attention by EEOC to trends in the reduction of minority faculty would be welcomed by those concerned about this issue. In that the interval between collection of these data and publication of them by EEOC has been relatively long, the Advisory Committee believes that the State Department of Education, which receives copies of the form, could perform a useful service by aggregating the data and making them available within the Commonwealth.

In addition, the Advisory Committee believes that the discriminatory aspect of layoffs could be more readily evaluated if the MCAD recorded complaints arising from layoffs as a distinct category of discrimination complaint. The Lawyers Committee for Civil Rights Under Law did so in its latest annual report with regard to layoff cases, and this seems a sound practice for civil rights agencies given the increasing number of disputes on layoffs.

District-Level Initiatives

While data-gathering and -recording gaps make it difficult to assess what transpired in the past year, dealing with data about the problem is not the same thing as dealing with the problem itself.

Fortunately, the past year also has provided a record of diligent, creative efforts in several jurisdictions to retain multiracial faculty. Brookline, Newton, and Cambridge successfully emphasized recruiting; Cambridge developed an agreement that maintained racial balance during layoffs; Medford and Pittsfield undertook organizational shifts that preserved minority jobs. The Advisory Committee urges school administrators committed to retaining minority teachers to look to such districts for examples of effective approaches.

In issuing its previous report, the Massachusetts Advisory Committee summarized the recommendations of participants in its Consultation as follows:

--Affirmative action planning should anticipate possible reductions in force.
--Explicit affirmative action language should be in place in the layoff and recall provisions of collective bargaining agreements.
--Job-sharing, shorter work weeks, early retirement, and voluntary career changes should be used to minimize minority layoffs.

--Minority teachers should organize to press for the retention of minority faculty and to demand that teacher organizations represent all teachers.

The jury is still out on the effectiveness of some of these measures in the past year, but by-and-large, the Advisory Committee continues to regard them as practicable. It is particularly opportune at present to act to include affirmative action language in contracts, as contracts are open in an unusually high number of school districts.1

Career Opportunities in Teaching

Declines in teaching staffs, by layoffs or other means, will continue in the next several years as enrollments continue to decline and budgets remain tight. However, just as the recent shrinkage of demand for teachers was in many ways foreseeable by reference to underlying demographic trends, so do some observers predict an eventual reversal of this decline:

> The U.S. Department of Labor forecasts startling increases in demand for teachers by the end of the 1980s: 21 percent for elementary teachers, 26 percent for preschool and kindergarten, 26 percent for vocational education. Only secondary education will experience a dropoff in demand, of 13 percent.2

Presumably the dropoff at the secondary level will be reversed when children at the lower levels in the late 1980s arrive at the secondary level in the 1990s.

This optimistic projection of teaching opportunities raises deep concern among some educators now analyzing the traumatic effects of the severe layoffs. This feeling of looming crisis was profiled in October by the Boston Globe, which was told by Michael Timpane, Dean of Teachers College at Columbia University:

> The scary prospect is that few people will want to teach at all. If the profession and the public don't begin to realize the magnitude of this problem, we're going to be in real trouble, because it will take many years to solve it. People are deciding today [emphasis in original] whether they will teach five years from now.3

Minority teachers seem to be particularly susceptible to leave the profession. They appear to be very likely to either lose jobs outright or feel their status is precarious. Moreover, they often are among the "best and brightest" of the minority community, with good prospects of finding work in other fields. In addition, replenishing their depleted ranks would seem to be particularly difficult as student aid cuts limit the access of disadvantaged students to higher education. For these reasons, retention of minority members now teaching is crucial.

Public Policy on Education

Ensuring equal educational opportunity for all races has become a fundamental goal of national and state education policy. Children of minority races are an increasing proportion of enrollment statewide. The preponderance of educational research on the experience of these children in the schools suggests that the presence of minority teachers is an important ingredient for success.

Furthermore, as the brief profiles in Chapter III showed, many larger school districts in the Commonwealth are undertaking some form of school desegregation. Educational research suggests that the presence of a multiracial faculty is important to the success of the desegregation process.

Finally, one of the reasons the Advisory Committee has undertaken this report is to provide those who make educational policy a base of sound information and clear projections of the implications of policy choices. One of the more startling of Professor Morgan's findings (upon correlating local voter support for Proposition 2-1/2 with other measures of educational policy) was that "there is no clear indication that the vote for Proposition 2-1/2 reflected local educational policies or the absence of demand for education" [emphasis in original].[4] Such a conclusion suggests that a public policy shift with profound effects upon education essentially was undertaken without explicit consideration of those effects. Thus, it is important to continue to raise awareness of these effects.

Notes to Chapter VI

1. Marvin Pave, "Survey Says 59 Mass. School Systems Without Teacher Contracts," Boston Globe, Nov. 11, 1982.

2. David Mehegan, "Trouble in the Teaching Profession," Boston Globe Sunday Magazine, Oct. 17, 1982.

3. Ibid.

4. Morgan, p. 9.

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